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ABSTRACT

This is the latest edition of a handbook designed to assist school administrators in preventing and dealing with school disruptions and certain related legal matters. Because the handbook was prepared specifically for use by administrators in the Los Angeles Unified School District, it is based on laws and regulations that may not apply elsewhere. However, many of the administrative actions and preventative measures it recommends may be of value to school administrators in other states and cities as well. Section 1 lists various types of disruptive activity, suggests steps to minimize the impact of such disturbances, and cites the administrative and legal authority supporting such steps. Section 2 lists various preventative measures that have been successful in one or more school districts. Section 3 discusses from a legal standpoint the substance and rationale for the recommended responses to various disturbances. Section 4 presents the text of the laws, regulations, and policies cited throughout the handbook. Section 5 provides useful information about relevant legal requirements and administrative procedures. Section 6 contains a glossary of terms, abbreviations, and references used throughout the handbook. (JG)

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HANDBOOK:

EMERGENCY LEGAL PROCEDURES

LOS ANGELES CITY SCHOOLS
Office of the Legal Adviser
1973

EA 007 716

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APPROVED:

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Associate Superintendent

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FOREWORD

This third edition of the Handbook is designed to improve its usefulness to administrators by integrating all reference materials developed for the 1973 edition and the 1974 supplement.

The practice of annually adding new or revised materials has increased the size of the Handbook to a point where its bulk is no longer accommodated by the binder in which it was originally released. In order to permit the maximum serviceability imposed by the size of the easily identified, hard cover, green vinyl jacket, all the statutes which are cited anywhere in the text have been packaged separately, alphabetically by code name and in numerical order within each code. It is suggested that this package of statutes be inserted into a separate binder and placed near the Handbook for quick resource. Such an arrangement will permit easier reference to both text and statutes, and will ease annual updating.

This revised 1975 edition contains an INDEX which may be found at the back of the Handbook and a STATUTE INDEX which immediately follows the light green divider labeled STATUTE. Additionally, there are modifications of narrative portions which eliminate sex-discriminating terminology. However, verbatim quotations of statutes, rules, opinions, or excerpts from other authorities have not been tampered with in order to eliminate what might be interpreted as discriminatory expression.

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INTRODUCTION

This handbook is designed to provide practical assistance to the school administrator. Its concerns are school disruptions and auxiliary information regarding certain legal matters.

Since the observance of law and order on campus is a necessary District objective, neither disorder nor disruption of the school process can be allowed. Persons attempting such actions will be held accountable.

The identification and labeling of activities herein which are characterized as disruptive represent a composite derived from local experience and a study of reports on the subject by school systems, nation-wide, serving cities with populations exceeding 300,000.

Since laws, rules, practices, judgment and discretion reflect the theories of their originators, this writing may appear to reflect a certain view. Every effort has been made to be objective and provide ready guidelines for coping with or minimizing a school disturbance. Materials to increase familiarity with tangential legal activities are also appended.

It is believed that the reasonable exercise of authority is the key to the maintenance of a healthy campus environment. Positive, firm, insightful action--the responses of a leader--contribute to an atmosphere of respect for other people, their rights, and their efficient functioning in group situations.

In sequence, the handbook (a) identifies, alphabetically, various types of disruptive activity, mentions steps suggested to minimize the impact of such disturbance, and the authority supporting such actions; (b) lists a reasonably comprehensive collection of preventive measures which have been of practical help in one or more districts; (c) treats from a legal standpoint, the substance and rationale for handling a particular type of disturbance in the manner described; (d) sets forth, in numerical order, the text of laws and references to rules and policies mentioned in this compilation; and (e) provides what we believe to be useful collateral information; (f) contains a glossary of terms, abbreviations, or references used in the body of the handbook.

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ABUSE

1. Verify incident reported.
2. Note nature of the abuse (words, actions).
3. Request outsider to desist.
4. Exercise self-restraint.
5. Assess need for class supervision.
6. Accompany abuser to office.
7. Secure abuser's version.
8. Secure teacher and pupil witness versions.
9. Notify Pupil Services and Attendance or police.
10. Notify Area Superintendent.
11. Advise teacher re filing criminal complaint.
12. File complete incident report.

REFERENCES:
Administrative Guide, Los Angeles Unified School District,
Numbers 1208-4, 1265
California Education Code, Sections 10601, 10602, 13558.5,
13559, 13560
California Penal Code, Section 71
Policy Bulletin: Division of Educational Support Services
Number 23

ASSAULT/BATTERY

1. Proceed directly to scene with assistant.
2. Exercise necessary physical constraints; confiscate weapons.
3. Provide first aid if necessary; contact parent of injured.
4. Note circumstances and individuals at scene.
5. Maintain pupil control.
6. Direct participants to office.
7. Secure statements from those involved.
8. Take appropriate administrative action, including accident report.
9. Notify police if necessary.
10. Notify parents, Area Superintendent, and Pupil Services and Attendance.
11. Advise victim of right to file criminal complaint.
12. File complete incident report.

REFERENCES:
Administrative Guide, Los Angeles Unified School District, Numbers 1208-4, 3602, 3609
California Education Code, Sections 10601, 10601.5, 10602, 10605.5, 12916, 13558.5
California Penal Code, Sections 240, 241, 245 (assault); 242, 243 (battery)
Policy Bulletins: Division of Educational Support Services Numbers 15, 21, 23, 43

BOMB THREATS

1. Remain calm; alert only personnel necessary to carry out predetermined school plan.
2. Obtain and record all information received.
3. Notify police and Security of threat.
4. Signal for immediate and total evacuation only when threat is imminent.
5. Establish danger zone to protect students and staff.
6. Launch team search for suspicious object.
7. Warn against handling suspicious objects.
8. If suspicious object is not found, signal for evacuation when warning time is at hand.
9. If suspicious object found, call Bomb Squad if police have not arrived.
10. If suspicious object found, shut off water, gas, and fuel lines in danger zone.
11. Complete bomb threat form appended to Office of Administrative Services Bulletin Number 18.
12. Call Public Information Unit for advice on handling media.

REFERENCES:
Administrative Guide, Los Angeles Unified School District, Number 2354-9
California Labor Code, Section 3367
California Penal Code, Sections 148.1(a), 148.1(b), 12301(a)(2), 448a, 452(a)(b)
Policy Bulletin: Office of Administrative Services Number 18

BUSES

1. Secure disturbance report from driver.
2. Review carefully disciplinary actions by driver.
3. Require strict adherence to bus conduct rules.
4. Administer appropriate disciplinary action when necessary.
5. Notify parent of offenses requiring suspension of bus privileges; call parent conference.
6. Contact Security Section and Public Information Unit when damage occurs.
7. Use Pupil Services and Attendance referral services when necessary.
8. Advise Area Superintendent of suspensions.

REFERENCES:
Administrative Guide, Los Angeles Unified School District, Numbers 2255, 2256, 2257, 2258, 2259
California Administrative Code, Title 5, Sections 14250, 14251, 14252, 14253, 14263
California Education Code, Sections 16851, 16856
Handbook for School Bus Drivers (Transportation Branch)

CRASHING

1. Check scene of disturbance in company of assistant.
2. Advise crashers of your position and authority; ask for identification and business on campus; note description of crashers.
3. Order each to leave campus immediately.
4. Advise that failure to leave upon request is a crime; warn that police will be called to make arrest.
5. Call police if crashers remain; request that arrests be made.
6. File complaint with City Attorney's Office or at appropriate police station.
7. Inform Area Superintendent.
8. File complete incident report.

REFERENCES:
Administrative Guide, Los Angeles Unified School District,
    Numbers 1265, 2002
California Education Code, Sections 13558.5, 16675
California Penal Code, Sections 602(p), 626.8
Los Angeles Municipal Code, Section 63.94

DRUGS/NARCOTICS

1. Follow up unusual rumors or specially reported circumstances.
2. Protect identity of informant, unless legally required to divulge identity.
3. Use ingenuity to detain suspected non-student pusher; simultaneously call police.
4. Call suspected student to office.
5. Search student's person, lockers, or other location under student's control, with witness.
6. Have student present during any locker search, along with witness.
7. Prevent destruction or other disposition of drugs.
8. Call police; turn over narcotics to police for further investigation.
9. Notify parents, Pupil Services and Attendance, and Area Superintendent.
10. Consider immediate suspension and possible expulsion.
11. Isolate student under influence.
12. Verify student's condition through nurse or other qualified school person.
13. Request police to transport student to hospital.
14. Immediately notify parent to meet police at hospital.
15. Request Pupil Services and Attendance investigation of reported local off-campus hangouts.
16. Record and file complete record of the disturbance.

REFERENCES:
Administrative Guide, Los Angeles Unified School District,
Numbers 1208-6, 1208-9, 2280
California Administrative Code, Title 5, Section 301
California Education Code, Section 10603

California Health and Safety Code, Sections 11056, 11057, 11350,
11353, 11354, 11357, 11359, 11361, 11377, 11378, 11380
California Penal Code, Sections 647(f), 647a
Los Angeles Municipal Code, Section 63.94
Policy Bulletins: Division of Educational Support Services
Numbers 5, 15, 21, 43

EXTORTION

1. Alert teachers to existence of such activities.
2. Encourage reporting of incidents of extortion or strong-arm activity.
3. Assure confidentiality; protect identity of informant.
4. Secure description or identity of individuals or groups involved.
5. Obtain description of property taken; nature of threats and type of fear induced.
6. Call suspects to office.
7. Offer chance at restitution; identify penalties for extortion.
8. Institute search if reasonable cause exists.
9. Enlist assistance of Security.
10. Assess appropriate disciplinary action; notify parents.
11. Consult with Area Superintendent regarding more effective measures.
12. Advise victim and his parent of criminal filing procedures.
13. Compile list of reported offenders or alleged offenders.
14. Seek to uncover repeated offenders, common scheme, plan, or gang.
15. Keep record of incidents reported.

REFERENCES:
Administrative Guide, Los Angeles Unified School District,
    Numbers 1208-1, 1208-4
California Education Code, Sections 10601.5, 10602, 12916,
    13558.5
California Penal Code, Sections 240, 241, 245, 524, 647a
Policy Bulletins: Division of Educational Support Services
    Numbers 5, 15, 21, 43

FIGHTS

Type of fight and number of persons involved serve as clues to nature of action to be taken.

1. Exercise discretion for broadest control reasonably possible under the circumstances.

2. Individually exercise necessary physical control to maintain order.

3. Call for assistance when additional help is needed.

4. Call law enforcement agencies when internal campus control is impractical.

5. Direct students to desist; return to class or leave campus; or be subject to arrest.

6. Minimize involvement or additional students.

7. Use second warning to notify pupils of suspension and to leave campus.

8. Close campus; control one entrance--exit. Extend class periods for students' safety.

9. Designate assistant to relay directives for help. In other than minor skirmishes, call Public Information Unit for assistance with the media.

10. Man telephones with responsible staff members.

11. Secure P.A. system and public phones.

12. Call police to arrest those who remain.

13. In extreme circumstances consider closing school; consult with Area Superintendent.

14. Provide first aid for injured; notify parents.

15. Use staff and students to identify participants, victims, and witnesses.

16. Where possible, interrogate participants and witnesses.

17. Consider suspension and/or expulsion.

18. Contact parents and Area Superintendent.

19. Cooperate with police in interviews of arrested students.

20. Notify parent if student arrested by police.

21. Prepare appropriate injury reports.

22. Organize, record, and file all evidence pertinent to the incident.

REFERENCES:
Administrative Guide, Los Angeles Unified School District, Numbers 1103, 1204, 1205, 1205-1, 1711, 2259, 2262-5, 2265, 2265-2, 2280:1, 2280:2, 2280:10, 2280:12, 2282, 2282-1, 2283, 2283-1, 2325-5
California Administrative Code, Title 5, Sections 300, 301(b), 5551, 5800(n)
California Education Code, Sections 925, 10601, 10601.5, 10602, 10605.5, 10607, 13556, 13557, 13558.5, 16675
California Penal Code, Sections 245, 836, 836.5(a)
Policy Bulletins: Division of Educational Support Services Numbers 15, 21, 39, 43; Office of Administrative Services Numbers 20A, 20B

LIQUOR

1. Follow up reports of use or suspected use.
2. Protect identity of informants.
3. Have suspected student(s) brought to office.
4. Try to prevent destruction of evidence.
5. Confiscate intoxicants.
6. Contact police if confiscation presents problem.
7. Note student's speech, breath, physical control.
8. With student and witness present, check locker and other campus locations under student's control.
9. If student is ill or abusive, isolate and call parent immediately.
10. In case of illness, request nurse's assistance.
11. Consider immediate suspension and possible expulsion.
12. Notify Pupil Services and Attendance and Area Superintendent.
13. Ask Pupil Services and Attendance to check possible off-campus liquor distribution sites.
14. Record and file complete record of the disturbance.

REFERENCES:
Administrative Guide, Los Angeles Unified School District,
    Numbers 1208-4, 1208-9, 2280
California Administrative Code, Title 5, Sections 301, 14251
California Business and Professions Code, Sections 25608, 25658,
    25662
California Education Code, Section 10603
California Penal Code, Section 647(f)
Los Angeles Municipal Code, Section 41.27
Policy Bulletins: Division of Educational Support Services
    Numbers 15, 21, 43

LOITERING

1. Direct all staff to immediately challenge apparent loiterer (trespasser) on campus.
2. Alert staff to points on campus perimeter where idlers congregate.
3. Secure comprehensive description of loiterer (trespasser).
4. Obtain descriptions of those who "hang around" adjacent to school areas.
5. Inform Security and local police of presence and description of off-campus loiterers.
6. Warn pupils against any communications with idlers.
7. Notify Area Superintendent when loitering becomes a problem.
8. Enlist support of advisory council assistance in elimination of loitering.
9. Maintain "loitering" file.

REFERENCES:
California Penal Code, Sections 647b, 653g
Los Angeles Municipal Code, Sections 41.18(a), 41.18(b), 103.118(1)
Policy Bulletin: Division of Educational Support Services Number 23

TRESPASSING

1. Follow up report of trespassers on campus.
2. Notify secretary that trespasser will be confronted and possible assistance will be needed later.
3. Order that Vice-Principal follow up within 10 minutes, if necessary.
4. Visit scene with another adult; confront trespassers.
5. Advise outsiders of your position and authority; request their identification and business on campus.
6. Secure description of trespassers.
7. Warn that non-compliance with principal's identification request is disturbance of peaceful operation of school and order trespassers to leave campus.
8. Advise that failure to leave campus is a crime.
9. If outsiders remain on campus, send assistant to call police to make arrests.
10. If outsiders disperse prior to arrival of police, provide officers with identification, description, and sequence of events and conversation.
11. Inform Area Superintendent.
12. Record and file all details of disturbance.

REFERENCES:
Administrative Guide, Los Angeles Unified School District, Numbers 1265, 2002
California Education Code, Sections 13558.5, 16675
California Penal Code, Sections 602(p), 626.8(a)
Los Angeles Municipal Code, Sections 63.94

PICKETING

1. Sustain normal school operations.
2. Urge vigorous conduct of classes.
3. Confine students to campus.
4. Check organization, size, and identity of picketers.
5. Ascertain nature of grievance.
6. Advise Area Superintendent, Security Section, and Public Information Unit.
7. Launch dialogue with picket leader(s).
8. Warn picketers against acts which disturb school operation.
9. Forbid use of school facilities to picketers.
10. Notify police if unlawful acts occur.
11. If picketing disrupts, suspend student on the spot.
12. If student picketing continues, order immediate arrest.
13. Maintain and file comprehensive log of picketing activities.

REFERENCES:
California Penal Code, Sections 407, 409
Los Angeles Municipal Code, Section 41.18(a)

SIT-INS

1. Follow up and check report of area occupied by students.
2. Use available staff to isolate sit-ins.
3. Initiate preplanned alternative schedule to avoid use of area occupied.
4. Eliminate unessential student use of halls or grounds.
5. Advise usurpers of illegal nature of their activities; warn of liability for damages and potential disciplinary action.
6. Prescribe use of lawful means of settling grievances.
7. Invite sit-in leaders to discussion of group's concerns.
8. Enlist parent support to remove ringleaders from site.
9. Maintain scheduled classes.
10. Secure identification of disrupters.
11. Warn, if occupation persists, such occupation is criminal.
12. Call police and Security when other persuasive means have failed.
13. Notify Area Superintendent. Notify Public Information Unit for assistance with media.
14. Record and file complete report of disturbance.

REFERENCES:
California Education Code, Sections 10601.5, 10602, 10604.3, 10605, 10606, 10609, 13556, 13557
California Penal Code, Sections 407, 409
Policy Bulletins: Office of the Superintendent Number 9; Office of Administrative Services Numbers 20A, 20B, Division of Educational Support Services Numbers 21, 43

VANDALISM

1. Assess extent of damage.
2. Resolve minor (under $25) damage incident locally.
3. Notify Security, police, Area Superintendent of major damage or loss.
4. Report loss to Insurance Office.
5. Advise employee of provisions for replacement or repair of damaged personal property.
6. Secure evidence relating to destruction (preferably, photo on dated film).
7. Assist Security or police in their investigation.
8. Administer appropriate disciplinary measures.
9. Assist with necessary legal filings.
10. File complete report of damage or loss.

REFERENCES:
Administrative Guide, Los Angeles Unified School District,
Numbers 1208-1, 1208-2, 1672, 1711, 2280, 2287
California Administrative Code, Title 5, Sections 301, 305
California Civil Code, Sections 1714.1, 1714.3
California Education Code, Sections 10605, 10606, 13558.5, 28601
California Government Code, Sections 6201, 53069.6
California Penal Code, Sections 448a, 449a, 451a, 602(j)
Policy Bulletin: Business Division Number

WALK-OUTS

1. Check situation personally when refusal to attend class is reported.
2. Notify secretary; require office follow-up; alert teachers through prearranged code.
3. Advise students of lawful means of resolving grievances.
4. Initiate meeting with student demonstration leaders.
5. Identify all involved in the demonstration.
6. Urge other students to return to class.
7. Advise that noncompliance with authority will result in disciplinary action.
8. Call police if disruptive activities do not cease.
9. Notify parents of all offenders; call each for conference.
10. Notify Area Superintendent and Public Information Unit for assistance with media.
11. Record and file comprehensive report of disturbance.

REFERENCES:
California Education Code, Sections 10601, 10601.5, 10602, 10604.3, 10609, 13557, 16675
California Penal Code, Sections 407, 409
Policy Bulletins: Office of the Superintendent Number 9; Division of Educational Support Services Numbers 21, 43; Office of Administrative Services Numbers 20A, 20B

WEAPONS

1. Formulate procedures for reporting deadly weapon possession.
2. Record reported observation in detail.
3. Assure protection of informant's identity.
4. Notify Security and Area Superintendent of situation.
5. Locate offending student.
6. Do not attempt forcible disarming.
7. Direct suspect to principal's office.
8. Request assistance of other adults if more than one student is involved.
9. Confiscate weapon from person or possession (locker) of student.
10. Call police; give confiscated weapon to police.
11. Secure police assistance in confiscating weapon if assault is imminent.
12. Take appropriate disciplinary action.
13. Notify parent of student involved.
14. Record and file report of disturbance.

REFERENCES:
Administrative Guide, Los Angeles Unified School District, Number 2351
California Education Code, Section 16675
California Penal Code, Sections 626.8, 626.9, 653k, 3024(f) 12020, 12021.5, 12025
Policy Bulletins: Office of the Superintendent Number 7; Office of Administrative Services Numbers 20A, 20B; Division of Educational Support Services Numbers 15, 43

PREVENTIVE MEASURES

Preparation permits the objectivity which frequently is missing during the stress and tenseness created by a disturbance. In establishing the readiness which may help dissipate the impacts of a disturbance, preliminary consideration of the following elements may prove helpful:

STUDENTS

1. Communicate with and listen to students.
   (Baltimore, Buffalo, Dallas, Denver, Omaha, Pittsburgh, Seattle)

2. Promote situations which lead to communication. Encourage and promote frequent informal occasions for bringing together faculty, pupils, and administrators.
   (Buffalo, Denver)

3. All school administrative personnel should make a special effort to be out in the halls frequently. Be visible. Be easily accessible to any and all students who might want to approach you.
   (Omaha, Pittsburgh)

4. Open forums are encouraged to provide students with the opportunity to speak or hear others speak on topics of general interest.
   (New Orleans)

5. Generate strategies to encourage full student participation in school life and school activities. Student participation encourages identification with and acceptance of the school program.
   (Dallas, Pittsburgh, Seattle)

6. Provide time, place, and opportunity for the free expression of personal views by students, excluding coercion of others into joining their mode of expression, and excluding intrusion in any respect upon the rights of others.
   (Dade County)

7. Make student government truly representative and meet with the student leaders several times a month. Hear them! Don't just listen.
   (Omaha, Pittsburgh, Seattle)

8. Meet with student groups outside of student government since student government usually represents the "in" students of the school and not those who are likely to become active dissidents. However, student government members should be included in any

special advisory organization. Also, emphasis should be placed upon the importance of initial presentation of all proposals and requests to the students' own organizational link to the school administration, the Student Council.
(Omaha)

9. Encourage and provide opportunities for student leaders, both elected and indigenous, to set an example for their peers.
(Baltimore)

10. Involve student participation in the formulation of positive, reasonable, and constructive behavioral guidelines.
(Buffalo)

11. Foster the resolution of problems by students through calm, intelligent discussions. Candid answers beget candid statements of concerns and observations.
(Baltimore, Denver, Pittsburgh, Seattle)

12. Maintain an avenue for the equitable resolution of student grievances.
(Baltimore, Buffalo, Omaha, New Orleans, Pittsburgh)

13. Principals should request that students place their grievances in clear written form prior to grievance meetings.
(New Orleans)

14. Communicate from the outset the limitations of your authority, but indicate the "next step" for students if your available actions don't satisfactorily settle the issue.
(Omaha)

15. Support and accompany any denial of student individual or group requests with the reasons therefor.
(Denver)

16. Insure student awareness and understanding of school rules; identify penalties for rule violations.
(Baltimore, Dade County)

17. Constantly challenge students who are out of class without authorization.
(Baltimore)

18. Consistently bring to bear the full force and effect of disciplinary regulations against students whose repeated misbehavior may lead to more serious or violent incidents.
(Dade County)

PARENTS -- COMMUNITY

19. The school cannot help but reflect the climate prevailing in the community. Encourage community involvement.
(Baltimore, Buffalo, Dallas, Kansas City, Toledo)

20. Establish and cultivate systematic contact with parents and parent organizations as well as with those community groups which have a bona fide interest in the school operation.
(Buffalo, Kansas City)

21. Enlist, organize, and train volunteer parents and school staff who have offered to help in the event of student or community unrest.
(Buffalo, Oklahoma City)

22. Try to restrict appointments with adults from off campus to post-class hours.
(Indianapolis)

23. Develop, publicize, and adhere to specific guidelines for dealing, preferably after the school day, with complaints from parents and/or other concerned groups involving various conflicts that may arise in the school.
(Denver)

24. Develop, publicize, and enforce a system which authorizes campus visitations and excludes unauthorized visitors.
(Buffalo, Cleveland, Dade County, Dallas, Oklahoma City, Omaha, New Orleans)

TEACHERS

25. Emphasize, develop, and maintain good teacher-pupil relationships. Stress understanding. Avoid indifference.
(Baltimore, Denver, Pittsburgh)

26. Make use of inservice training opportunities in attempting a continual refinement of awareness to the changing educational milieu and the cultural distinctions of minority groups.
(Omaha)

27. Among the responsibilities of available male teachers, incorporate the regular patrolling of halls, isolated areas, and known trouble locations.
(Dade County)

28. Arrange for the supervision of restroom areas during breaks between classes.
(Dade County)

29. Facilitate and implement a teacher "buddy system" to provide

awareness, cooperation, and assistance to neighboring classrooms.
(Denver)

30. Energize open-line communication whereby school personnel will report promptly any unusual circumstances or rumors.
(Baltimore, Buffalo, Denver, Pittsburgh, Rochester, Seattle)

31. Evolve some means whereby classroom teachers may quickly relay information to the office about ominous problems occurring in their rooms.
(Denver, Omaha)

32. Devise an appropriate procedure and signal by which a teacher may summon immediate help from a designated person.
(Dade County)

33. Evaluate school personnel to determine strength, availability, and special competencies in emergency situations.
(Cleveland)

34. Encourage teachers leaving the building at the close of school to go in groups of three or four to their automobiles.
(Dade County)

35. Guard against forms of insulation and isolation which tend to choke off small hints that precede the rise of big problems.
(Buffalo)

36. Provide for orientation and review at general staff meeting which will regularly acquaint all personnel with security procedures.
(Cleveland, Toledo)

37. Make certain that school staff has sufficient training in emergency procedure to assure appropriate and "automatic" response when emergency occurs.
(Long Beach)

38. Initiate procedures which will keep substitutes, secretaries, and aides informed of all school rules and procedures.
(Baltimore)

SCHOOL GROUNDS

39. At the beginning of the school year, principals should promulgate to all students, parents, teachers and other employees of the Board the official time at which classes begin and terminate at the close of the day at the particular school; also to be provided are the earliest and latest hours at which students may be on the premises or grounds without special authorization.
(New Orleans)

40. Evaluate the school grounds to identify problem areas and situations in need of attention.
(Cleveland)

41. Insure that doors, gates, and entrances to unused rooms or areas are locked.
(Dade County, Oklahoma City)

42. Insure that all classroom as well as other interior and exterior doors may be readily locked from the inside.

43. Secure all school entrances, except the main entrance during the day.
(Baltimore, Buffalo, Dade County, Dallas)

44. Maintain constant observation of halls and school entrances.
(Baltimore, Cleveland, Dade County, Dallas, Oklahoma City, Omaha, Seattle)

45. Provide for spot checks to assure complete securing of school property prior to end of school day.
(Baltimore)

46. Report promptly in order to expedite repair of any plant deficiencies which might facilitate vandalism or other disturbances.
(Baltimore, Cleveland)

47. Institute and test a communication-alarm and emergency procedure system to be utilized in case of disturbance.
(Baltimore, Buffalo, Cleveland, Dade County, Long Beach, Oakland, Omaha, Seattle, Toledo)

48. Consider an "emergency equipment" kit, readily accessible in case of an emergency, consisting of items such as a camera with telephoto lens and film, a battery-operated tape recorder, a bull horn, a walkie-talkie, and a flexible microphone and speaker system. Assign specific people to use the equipment and train them in its use.
(Long Beach, Omaha, Seattle)

49. Regularly check the working order of public address and bell systems along with operability of emergency equipment kit items.

50. Forge and maintain cooperative working relationships with all local law enforcement agencies.
(Baltimore, Cleveland, Dade County)

51. Maintain good relations with the media. Do not be intimidated by the media.
(Dallas)

52. Initiate procedures for dealing with unmanageable students and outside intruders which preclude, if possible, initial physical contact by the school staff with such students and intruders. (Dade County)

53. Establish as routine practice the maintenance of a log listing date, time, location, individuals involved, and nature of all incidents and disturbances.
(Dade County, Dallas)

Preventive Measures: State Activity

A recognition of the need for safeguards and deterrents as preventive measures in the reduction of conflict and violence in the schools was expressed in a Spring 1974 State Department of Education report.[1]

The study identified four general types of conflict (situational, intergroup, student activism, and crime), drew general conclusions as to its nature and extent (decline of campus disruptions, extensiveness of vandalism, and increasing incidence of crime), explored in some depth student, staff, and community views as to the causes of situational conflict, and described preventive measures designed to mitigate serious school disturbances.

Recommended deterrents for situational and activist conflict included (1) increased involvement in the school and its programs by students and parents, (2) establishment of effective individual and group counseling programs, and (3) an improved physical environment. With regard to prevention of intergroup conflict, recommendations incorporated (1) improved school staff racial balance, (2) inservice emphasis on staff sensitivity to ethnic problems and ethnic differences, (3) adoption of multicultural curricula, (4) advisory-council sharing of decision-making responsibilities, and (5) use of racial relations programs to facilitate improved group communication.

Crime prevention recommendations proposed (1) hiring of security guards or using parents as security guards, (2) improved school emergency communications systems, (3) closer regulation of access to school campuses, and (4) long range, as contrasted with short range, approaches to crime prevention.

An emergency action plan was found to be an absolute necessity in dealing effectively with school disruptions. Its three elements included:

A. Procedures to be followed prior to the occurrence of an overt problem:

    1. Increase visibility of all adult members of the school community.

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[1] "Report on Conflict and Violence in California's High Schools," prepared by the Task Force on the Resolution of Conflict. Sacramento: California State Department of Education, 1974.

2. Use paraprofessionals and parents to monitor halls and the campus (found to be more helpful than uniformed police).
3. Free key teachers from their classes to aid in campus control. These should be teachers who know and relate positively to large numbers of students.
4. Seek out leaders of potential conflict, begin a real communication process, and listen well.
5. Counteract rumors by supplying correct information to key groups in the community and ask the community to help.
6. Recognize that many conflicts are the result of real injustice and take immediate steps to correct the injustice.
7. Arrange meetings between competing factions.
8. Bring in sections of the student body and ask for their help.
9. Remove from campus small groups of students quarreling with one another and work toward a better solution for disputes among these groups.
10. Alert local law enforcement agencies of the possibility of violence.

B. Procedures to be taken during the occurren[illegible]f an overt problem:

1. Stay cool, listen, and buy time, for time can be a great ally. Don't violate "due process" procedures.
2. Involve the total staff in problem solving.
3. Let students ventilate their feelings verbally.
4. Establish a plan of action to prevent nonstudent forces from coming on campus.
5. Maintain effective communications with the staff, students, and security personnel.
6. Provide a place where students can go to talk out their problems.
7. Be honest. Promise only what can be delivered.

8. Seek aid from community agencies.

9. Recognize a situation that can no longer be controlled. Call the police and allow them to function when they arrive.

C. Procedures to be followed after the occurrence of an overt problem:

1. Maintain the involvement of those parents and agencies that came to school in the time of crises.

2. Critique the now-past problem with members of the school community and police. Identify those actions done poorly and those done well.

3. Correct the cause of the conflict and design a better plan based on what was learned from the previous situation.

4. Involve a larger number of school community members in the establishment of school policy.

5. Share experiences and critique with other administrators and other members of the staff. Learn from the past.

6. Open more avenues of communication so that the voice of the student can be heard. Establish legitimate channels for grievances and make them known to students.

In some cases rewards have been offered for information leading to the arrest of persons involved in vandalism and other crimes. In other instances parents have been held liable for restitution of losses for acts of vandalism committed by their children, including the payment of any reward.

LEGAL RATIONALE

Detailed Analysis

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LEGAL RATIONALE

Abuse of Teachers and/or Pupils

An important factor in maintaining an effective educational environment in the schools is the provision of an atmosphere in which both pupils and faculty feel personally safe and comfortable. Where abuse of the individual is permitted to go unchecked, concern for personal safety will override the element of teacher-pupil interaction so necessary for quality education. For this reason preventive measures are needed to protect pupils and staff members from physical and verbal abuse by outsiders and to deal swiftly and effectively with such incidents when they occur. Concern should also be focused on insuring the teachers' roles as educator and authority figure by protecting staff from such abuse, whether from students, parents, or other adults.

Preventive measures may be taken which can minimize the impact of an incident involving abuse. Experience has shown that since most assaults and numerous incidents of extortion are instigated by outsiders who trespass on school grounds, some type of security measures at campus entrances would be advantageous. Although opinions differ on this practice, all entrance gates could be locked during the school day with the exception of the main entrance where an aide or faculty member could check all incoming persons to make sure each had legitimate business on campus. Faculty and other staff members could be asked to challenge any person who is not recognized as being either a pupil or member of the staff. The means of enforcement of Board Rule 1265 which makes the campus off-limits to non-school persons not securing the principal's approval is a matter of judgment for the local school administrator.

Further preventive measures against abuse of teachers and pupils by outsiders could take the form of strict enforcement of laws proscribing loitering and vagrancy. Outsiders who have been spotted on campus could be warned by the administrator (preferably accompanied by a faculty member to serve as a witness) that their unsanctioned presence on campus is a violation of the law. When one or a group of outsiders fails to withdraw from the campus after being requested to leave, local police could be called for assistance. Administrators should be familiar with (a) Penal Code Section 653g which identifies loitering around a public place where children normally congregate as vagrancy; (b) Penal Code Section 647a (cited in Administrative Regulation 1208-6) which makes it a misdemeanor (vagrancy) to annoy or molest any child under the age of 18 years; (c) Penal Code Section 647b which makes it a crime to loiter about or molest persons in attendance at schools furnishing courses for adults, and (d) Municipal Code Section 63.94 (cited in Administrative Regulation 1208-6) which forbids any person from using, occupying, playing in or upon, or trespassing in or upon the grounds of any public school in the city. Do not be discouraged if an arrest does not culminate in conviction. Simply arrest again and again, if appropriate. Arrests are not pleasant to the one arrested and carry a severe potential sanction.

Another preventive measure with respect to abuse of pupils and teachers would be to remain constantly alert for the presence of weapons on or around the campus. Strict enforcement of the laws banning possession of various weapons, with assistance from local police, would hopefully serve as a dissuader against assaults including acts of extortion, which are most critical in nature. Administrative cognizance of statutes relating to firearms and other weapons should include:

a. Penal Code Section 626.9: makes it a crime to bring or possess a firearm on public school grounds without permission of school authorities.

b. Penal Code Section 12020: makes it a felony to sell, give, lend, or possess certain weapons or to conceal dirk, dagger, or explosive substances on one's person.

c. Penal Code Section 12021.5: makes it a mis demeanor for a minor to possess a concealable firearm without written permission of parent or unless accompanied by parent.

d. Penal Code Section 3024 (f): defines and identifies deadly weapons.

e. California Administrative Code, Title 5, Section 14253: prohibits loaded weapons on school buses except when carried by a peace officer.

f. Municipal Code Section 55.01: makes it a crime to carry a loaded or unloaded gun or other deadly weapon without a permit.

The development of an atmosphere of respect for others and of give and take between teacher and student in an environment free from prejudice or arrogance would be major elements in establishing satisfactory staff-pupil relationships. An awareness on the part of all school staff of pupil culture, life-style, values, and popular forms of expression serves to reinforce understanding, promote tolerance, reduce tensions, and eliminate bases for teacher abuse by pupils or antipathy toward those in authority.

Pupils should be oriented to the source and content of rules and regulations governing their obligations, conduct, and activities at school. When daily class experience provides the outlet for exchange of ideas and resolution of problems, the positive attitude of respect will supersede outcroppings of resentment, insolence, or "revenge".

Thus preventive measures would include encouraging and promoting situations which lead to improved communication among faculty, pupils, and administrators in both class and non-classroom situations. It is a useful rule-of-thumb when saying "no" to one or more students to explain the reasons why their request cannot be granted. Similar communication guidelines would aid in avoiding parent-teacher confrontations. Personal availability to and frequent contact with parents and parent organizations tend to establish patterns which direct complaints to the administrator and thus would lessen the probability of teacher abuse by a segment of community adults.

Where preventive measures fail and an incident of assault or verbal abuse does occur, prompt action will help alleviate the situation and probably aid law enforcement officials in apprehending the assailant(s). Where the incident involves verbal abuse of a teacher, the teacher should not allow himself/herself to be baited by antagonistic remarks and vulgar language. Every effort should be directed toward retaining temper control and courteous demeanor. When a student is abusive, disciplinary action is available (Education Code Section 10602). If a parent or other adult is involved in the verbal abuse, there may be recourse to criminal action (Education Code Sections 13559-60; Administrative Regulation 1208-5). In either case it would be advisable to secure the names of witnesses, participants, and all other pertinent information.

Where a student or teacher is the victim of an extortion attempt, it is generally advisable to offer no resistance unless circumstances warrant opposition. The victim should relinquish whatever the assailant(s) requests while trying to make mental notes of features and clothing for purposes of later identification. Immediately after the incident, whether or not the victim has relinquished any property, he/she should report it to the principal who, in turn, should call Security. Since extortion and "strong-arm" actions involve threats of physical harm, it is especially important to provide a campus climate in which students are encouraged to come forward and report such incidents when they occur.

Any employee who suffers an assault in connection with his/her employment should report it to the principal immediately. Where there is an assault upon a teacher or pupil, any school employee(s) in the area should take immediate action to terminate the assault while considering safety of self and that of pupils at the scene. A student should be instructed to report the assault to the principal's office immediately. If the assault takes place in the classroom, a student who has been preinstructed in the event of such an occurrence should report what is happening to the teacher in the adjoining classroom. When the assault is being committed by a student, physical restraint should not exceed the minimum physical force necessary. Except for purposes of self-defense, the student should not be struck with an open hand, fist, or any instrument.

After the assault has terminated, immediate attention should be directed to any medical care required by the victim(s). The principal should activate a log giving date, time, nature of incident, names of persons involved, and a description of action taken. Completion of an accident report may prove a practical method for collecting pertinent information. The Area Superintendent should be notified regarding the circumstances of the assault. If the principal or victim (pupil or employee) deems the incident to be of a serious nature, the principal or victim may notify the police for immediate action. In case of a student arrest, the parent should be notified immediately. School personnel who are assaulted should be advised of their right to file a criminal complaint with the appropriate city or county authority. In addition, the employee should be made aware of Board Rules 3602 and 3609 which provide for paid leave up to one calendar year for absence because of an injury resulting from an assault or battery directly related to school duties but beyond the normal risks experienced by an employee. If a pupil participates in the assault, the pupil should be suspended immediately.

Though the aforementioned measures are merely suggestions, the following reporting procedures are required by law:

"a. Penal Code Section 11161.5: certificated personnel and school nurses are among those who should report to the chief administrator of the school concerning any minor who is observed to have been sexually molested or subjected to infliction of inexcusable physical pain or mental suffering or appears to have had a physical injury inflicted upon him by other than accidental means (see Division of Educational Support Services Bulletin Number 22)."

b. Education Code Section 10605.5: it is the duty of the chief administrative employee at the school to notify appropriate law enforcement authorities of Penal Code Section 245 violations (assaults).

c. Education Code Section 12916: any school employee who has knowledge of an assault or attack by any pupil upon a school employee must report it to the appropriate law enforcement authorities of the county or state.

d. Administrative Regulation 1208-4: all matters of serious misconduct of pupils other than those specified in Administrative Regulation 1208-1 (crimes) may be referred to the Pupil Services and Attendance Branch for consultation or for legal action.

Mandatory and discretionary reporting of California Code violations are outlined in Educational Support Services Division Bulletin Number 23.

Persons who verbally abuse teachers, or assault or extort personal property from pupils or teachers, are subject to a number of penalties. If an assault or act of extortion is committed by a student, such student is subject to immediate suspension. Education Code Section 10602 lists among the grounds for suspension or expulsion, continued abuse of school personnel and assault or battery or any threat of force or violence directed toward school personnel or students. The principal's authority to suspend stems from Education Code Section 10601.5 while Education Code Section 10601 gives a teacher authority to suspend, for good cause, any pupil from his or her class for the day of suspension and the day following. Under this section, the teacher must report the suspension to the principal and request the pupil's parent or guardian to attend a parent-teacher conference on the matter. See Division of Educational Support Services Bulletin Numbers 15, 21, and 43 for suspension and expulsion procedures.

When an incident involves verbal abuse of a teacher in the presence or hearing of pupils, resort may be had to Education Code Sections 13559 and 13560 which make such action a misdemeanor. Administrative Regulation 1208-5 states that when these violations occur they should be reported immediately to the Pupil Services and Attendance Branch or the local police agency by the principal.

Any person who, with intent to annoy, telephones another and refuses to identify himself/herself, addresses to the other any obscene language or threat to inflict injury upon the other's person, family or property is guilty of a misdemeanor (Penal Code Section 653m). Any person who willfully uses an electronic listening or recording device in a public school classroom without prior consent of the teacher and the principal is guilty of a misdemeanor if a nonstudent or is subject to disciplinary action if a student (Education Code Section 9015).

Where an assault, battery, or an assault and battery (see Glossary) occurs, the person who commits the act is subject to severe penalties (Penal Code Sections 241, 243, 245). Certain aggravated assaults and batteries such as assault with a deadly weapon, assault with intent to commit rape and assault with intent to murder are felonies and subject the perpetrator to more severe penalties than do simple assault and battery (Penal Code Sections 217, 220, 221).

False imprisonment is the physical restraint of another against his will. It is a misdemeanor unless effected by violence, menace, or deceit in which case it is a felony. (Penal Code Sections 236, 237; People v. Arvanites, 17 Cal.App.3d 1052, 95 Cal.Rptr. 493). For example, in the Arvanites case, supra, U.C.L.A. students were convicted of felonious false imprisonment for surrounding a university functionary in his office and creating a situation so filled with "menace" that he did not leave although he desired to do so. Later they placed their hands on him to stop him from leaving, thus falsely imprisoning by means of "violence".

Robbery is a felony in which the perpetrator uses force or fear to facilitate his taking personal property from the possession of another against that other's will (Penal Code Sections 211, 213). See the Glossary under "Robbery" for the distinction between robbery and extortion.

Any person attending an educational institution who willfully commits any act which would tend to injure, degrade or disgrace a person attending the educational institution is guilty of a misdemeanor. The prohibited acts include hazing (Education Code Sections 10851, 10852, 10853).

Penal Code Section 650 1/2 is a catchall provision making unlawful the commission of certain acts when done in a manner not otherwise punishable. The prohibited acts include willful: infliction of serious injury, endangering public peace or health, outraging public decency, using another's name in a manner tending to affect his or her moral reputation, and impersonating another for a lewd or licentious purpose.

Additionally, Education Code Section 13558.5 states that every minor over 16 years of age or adult who is not a pupil who comes upon any school ground and willfully interferes with the discipline or lawful conduct of any school activity, with the intent to disrupt, obstruct, or inflict damage to property or bodily injury upon any person is guilty of a misdemeanor. More generally, Penal Code Section 415 declares that every person who maliciously and willfully disturbs the peace and quiet of any neighborhood or person is guilty of a misdemeanor. Where a pupil is the object of abuse, assault, or extortion, the guilty party may be subject to Penal Code Section 647a (cited in Administrative Regulation 1208-6) which makes it a misdemeanor upon first conviction and a felony upon subsequent convictions to annoy or molest any child under the age of 18 years. A person who uses threats of physical harm to coerce a school employee to do any act in the performance if his/her duties is guilty of a public offense (Penal Code Section 71).

Where a person attempts, by means of any threat, to extort money or any property from another, Penal Code Section 524 states that he/she is punishable by up to one year in the county jail (a misdemeanor), or up to five years in the state prison and/or a fine of up to $5,000 (a felony). Where one extorts money or personal property from another, under circumstances not amounting to robbery, by means of force or any threat, he/she is punishable by one to ten years in state prison (a felony).

Morals Offenses

Educators and pupils are subject to abuse from perpetrators of crimes against morals. Penal Code Section 647a making child molestation a criminal offense (see LR-6) is but one of the statutes supporting actions of school administrators seeking to prevent or curb morals abuses. (See CI-38 for suggested procedures with regard to questioning the molested child.)

Where a person accomplishes an act of sexual intercourse with an unwilling or duped woman who is not the perpetrator's wife, the perpetrator is guilty of rape, a felony punishable by a minimum of three years in the state prison (Penal Code Sections 261, 264). Any sexual penetration, however slight, is sufficient to complete the crime (Penal Code Section 263).

Sexual intercourse accomplished with a female under the age of 18 years who is not the wife of the perpetrator is a crime punishable as a felony or misdemeanor in the discretion of the court (Penal Code Sections 261.5, 264).

When a group of two or more acts in concert to rape or to aid and abet in the forceful or violent rape of a woman against her will, each perpetrator is punishable by confinement in the state prison from five years to life (Penal Code Section 264.1).

Any person who willfully commits a lewd or lascivious act with the body or any part of the body of a child under the age of 14 years may be punished by imprisonment in the state prison for from one year to life (Penal Code Section 288).

Several other offenses against morals are less serious than those above mentioned. For example, "streakers" and persons who exhibit their genitals to the public have been arrested pursuant to Penal Code Section 314 which provides that any person who willfully and lewdly indecently exposes himself/herself or procures the indecent exposure of another is guilty of a misdemeanor.

Where a person engages in immoral or degrading practices in the presence of a child or is habitually drunk in the presence of a child within his/her care or custody, that person is guilty of a misdemeanor (Penal Code Section 273g). (See page CI-38 on "Questioning the Molested Child" and page CI-29 on "Corporal Punishment".)

Dangerous or Deadly Weapons

Schools have the responsibility of assuring that the health, safety, and general welfare of members of the school community are safeguarded and promoted (Student Rights and Responsibilities, page 14). In furtherance of the Board's policy of creating and maintaining an educational environment free from elements of danger to person and property, there has been issued Office of the Superintendent Bulletin Number 7 which states that as long as weapons constitute a threat of violence to other students and school personnel, they cannot be brought on or near any public school under any circumstance. Specifically, the Superintendent has declared that "The conveying onto any school campus by any pupil or the possession on any school campus by any pupil of any item described in California Penal Code Section 3024(f) as a deadly weapon constitutes a threat of violence directed toward students and school personnel and is the basis for immediate suspension and a request for expulsion procedures to be initiated * * *."

In accordance with the authority (Board Rule 2351) delegated by the governing board, the Superintendent has "the duty to instigate and promote a safety education and accident prevention program for the purpose of providing a high degree of safety for pupils and employees of the . . . District." Consonant with this authority and the District's policy to provide for a safe and secure place for students to learn and for teachers to carry on their educational responsibilities, school administrators are expected to vigorously enforce the mandate to eliminate the possession on campus of deadly weapons (California Penal Code Sections 626.9, 3024(f)) by students. It should be noted that "possession by a pupil" is defined to include any area over which the pupil may exert a significant degree of control, including, but not limited to, a school locker.

The attention of administrators is called to the substance of certain laws relating to weapons and their possession on a school campus.

a. California Penal Code Section 626.9: makes it a crime to bring or possess a firearm upon the grounds of any public school.

b. California Penal Code Section 653 k: makes it a misdemeanor to carry, sell, loan, transfer, or give to another a switch-blade knife with more than a two-inch blade; defines switch-blade knife.

California Penal Code Section 626.10 makes it a misdemeanor to bring or possess upon school grounds any knifelike instrument with a blade longer than 3-1/2 inches or a blade which locks into place or a razor with an unguarded blade. The statute specifically authorizes any certificated or classified employee of a school district to seize such a weapon as contraband.

c. California Penal Code Section 12020: makes it a felony to manufacture, import, sell, give, lend, or possess certain weapons, most of which fall into the "deadly" category. This section has been amended to make possession of a metal plate having three or more radiating points with one or more sharp edges a felony. It has also been amended to make possession of a "nunchaku" a felony. This weapon consists of two or more bars used as handles connected by a cord, wire, or chain.

d. California Penal Code Section 12021.5: makes it a misdemeanor for a minor to possess a concealable firearm without his/her parent's written permission or when unaccompanied by his/her parent.

   Penal Code Section 12072 makes it a misdemeanor for any person or corporation to furnish to a minor a firearm capable of being concealed upon the person. (This statute authorizes punishment of the gang or friend or adult who furnishes a minor with a concealable firearm.)

e. California Penal Code Section 12025: makes it a misdemeanor to carry, without a license, a firearm concealed on one's person or concealed within any vehicle.

f. California Penal Code, Sections 417, 467 make it unlawful to brandish a firearm or other deadly weapon in the presence of another.

g. California Penal Code, Section 12582 makes possession, sale or use of blowguns or blowgun ammunition a misdemeanor. "Blowgun" means a hollow tube through which "blowgun ammunition", a dart, is propelled by force of a person's breath (Penal Code, Sections 12580, 12581).

h. It is illegal for any person to possess firearms from which the identifying numbers have been removed or to possess certain equipment such as sniperscopes and silencers (California Penal Code Sections 468, 537e., 12001.5, 12094, 12220, 12520).

Preventive Measures

Each administrator has the responsibility of developing a plan of action to meet the problems of disturbances . . . and disorders which might occur on or adjacent to the school site for which he/she is responsible. (Office of Administrative Services Bulletin Number 20A).

In order to minimize these forms of disturbances, the following preventive steps are suggested:

a. Use Homeroom, English, and Social Science classes to conduct student orientation programs each semester to inform students of their rights and responsibilities. Include a review of Student Rights and Responsibilities handbook along with code enactments prescribing pupil duties.

b. Inform students of relevant statutes that relate to weapons on campus.

c. Call students' attention to the occasion for both regular and emergency searches of both students and lockers. Advise students and parents of guidelines relating to the search of students and the search of lockers.

d. Acquaint students with limitations on their rights of privacy when the health, safety, or general welfare of others is endangered.

e. Explain the meaning of "in loco parentis" to students to clarify the relationship between students and school personnel.

f. Counsel students that school personnel are authorized to conduct searches of students and lockers when there is reasonable cause to believe that a student has a weapon in his/her possession.

Procedures

When information is received leading to the belief that a student has a deadly weapon in his/her possession, it is suggested that the following steps be taken by the school administrator:

a. Secure as detailed a report as possible as to the time place, and circumstances regarding the observation of a deadly weapon. Assure the informer that his/her identity will be protected.

b. Identify the person suspected of having a weapon.

c. Advise the security officer on duty of the situation as well as the Area Superintendent.

d. When the offending student is located, do not attempt to disarm him/her forcibly.

e. Request the student under suspicion to come to the office.

f. If more than one student is involved, seek the assistance of the security officer and other administrators.

g. If possible, without endangering oneself or other students, confiscate the weapon from the person, locker, desk, or other location.

h. Turn the confiscated weapon over to the police for further investigation.

i. If the situation appears so dangerous that the principal believes an assault might occur, contact the police to assist in confiscating the weapon.

Searches

Office of the Superintendent Bulletin Number 7, defines possession to include any area over which the pupil may exert a significant degree of control, including but not limited to, a school locker. California Courts have upheld the authority of school administrators to conduct a search of either a student's person or locker for contraband. (In Re Donaldson, 269 C.A.2d 509) (1969). Similar searches would probably be upheld where weapons are sought. "The District recognizes that students have rights of privacy commensurate with those guaranteed to adults [but these may be] diminished only where there is reason to believe that the health, safety, and general welfare of students at the school are endangered."

Tests

If locker searches are conducted, the following tests must be met:

a. The administrator must have reasonable cause to believe that, under the circumstances, the student has a weapon in his/her locker, and

b. The search must be within the scope of the administrator's duties, i.e., to prevent a threat of violence directed toward students and school personnel.

Suggested Procedure

When conducting a search, the following procedures are suggested:

a. If possible, arrange for the student to be present when his/her locker is being searched.

b. If possible, arrange for another adult witness to be present when a locker search is necessary.

c. If there is doubt as to the nature of the contents found, professional assistance (e.g., security agent) may be secured for identification purposes.

Extent of Student Searches

Only an administrator or his/her designee has the authority to conduct a search. The scope of a search may include a student's person and areas over which he/she has control, including the student's locker. Locker may include gym locker. Whether a student's automobile parked on school property would be within the scope of a proper search has not been decided by the courts. It may be argued that permission to use school facilities for parking carries with it the obligation to observe school regulations. California Courts have not ruled on whether conducting a search immediately adjacent to school property is within the school's authority. Se In Re Christopher W., 29 C.A.3d 777 (1973) and In Re Fred, 26 C.A.3d 320 (1972). See pages CI-19, CI-20, CI-21. Whenever it appears that the situation cannot be contained, the principal or his designated representative should set in motion appropriate emergency procedures. Office of Administrative Services Bulletin Number 20B suggests emergency procedures that can be followed. Measures that should be considered when the campus situation reaches major disturbance proportions could include:

a. Assign responsible staff members to receive and direct all telephone calls related to the emergency.

b. Provide members of the administrative staff with emergency telephone numbers.

c. Assign an administrator to relay the principal's directives to those designated to receive them and send for help.

d. Secure the school public address system and assign the responsibility for its use to a staff member.

e. Notify teachers through the public address system of the disturbance and use a prearranged code to give necessary instructions for the safety of other pupils.

f. Establish a closed campus.

    (1) Provide one entrance and one exit.

    (2) Require those entering to give appropriate identification.

    (3) Provide those entering with proper identification.

g. Inform teachers of the necessary extension of class periods to minimize additional student involvement and for general student safety.

h. Direct teachers to identify and secure names of witnesses, victims, participants and other pertinent information.

i. Issue a first warning to students or groups of students involved in the disturbance through the use of an amplified speaker system to:

    (1) Desist under threat of suspension or expulsion; cite code authority (California Education Code Section 16675);

    (2) Return to class or leave campus and return to their homes;

    (3) Cease disturbance or they will be subject to arrest.

j. If pupils persist in unlawful activities following a second warning, notify pupils of their suspension and direct them to leave the campus.

k. If students remain on campus, call police to arrest them under authority granted by California Penal Code Section 626.8 and California Education Code Section 16675.

If the situation gets so out of hand that the educational program is completely disrupted and tensions materially affect the instructional program, notification should be issued to the Area Superintendent that the school should be closed to protect the welfare of students in attendance. Confirmation of the principal's decision by the Area Superintendent would serve as the necessary preliminary step and be tantamount to the Superintendent's authority to direct the closing of any school whenever, in his/her discretion, such closing appears necessary to insure the health or safety of the pupils. Such action shall be submitted to the Board for confirmation at its next meeting. Subsequent reopening of any school so closed shall be authorized when the Superintendent determines with the advice of the Area Superintendent that the conditions which necessitated the closing have ceased to exist (Board Rule 1103).

Reporting Assault with Deadly Weapon

In the event a school employee or student suffers an assault with a deadly weapon while on school premises, a report of the incident should be made to the principal. The principal shall notify the police for immediate action.

California Penal Code Section 245 makes it a crime for any person to commit "an assault upon the person of another with a deadly weapon or instrument or by any means of force likely to produce great bodily injury". A pupil who commits such an act shall be reported to the local law enforcement agency in whose jurisdiction the school is situated (California Education Code Section 10605.5).

California Education Code Section 12916(a) states that any pupil who attacks, assaults, or menaces any employee of the school district shall be promptly reported to the appropriate law enforcement authorities in whose jurisdiction the school is situated. Failure to make such a report is a misdemeanor.

In this same subject area, it should be recalled that nonaccidental injuries to children must be reported. The law states that any pupil who is observed by a school physician, nurse, or principal to have an injury or injuries which appear to have been inflicted upon him/her by other than accidental means by any person shall be reported to the appropriate law enforcement agency (California Penal Code Section 11151.5). Division of Educational Support Services Bulletin Number 22 states procedures to be followed.

In the event an assault with a deadly weapon is confirmed, it would be appropriate for the principal to:

a. Provide for aid, care, comfort, and transportation of the injured. Notify parent of injured pupil; next of kin of injured employee.

b. Notify the offending student's parent by telephone as soon as possible.

c. Suspend offending pupil immediately. Promptly initiate steps toward expulsion.

d. Notify the Area Superintendent regarding the circumstances of the assault.

e. Advise the school employee or student assaulted of his/her rights to file a criminal complaint with the city (or district) attorney's office.

f. Secure a written report of the incident as soon as feasible from the assaulted employee.

g. Prepare a comprehensive written statement (copies of which should be sent to the Area Superintendent, the police, and to the student's parents) describing the incident and all administrative action taken.

Distribution, Use, and Sale of Drugs and Liquor

A most severe immediate problem in our society is the use and abuse of drugs and liquor. Schools are not sheltered from the problem. While regulations such as California Administrative Code, Title 5, Section 301 establish the duty of pupils to refrain from use or possession of intoxicating liquor, narcotics, or dangerous drugs (see Glossary for distinction between narcotics and drugs) on school grounds or in conduct related to a school activity, it is now generally recognized that such proscriptions, alone, are not enough to combat the escalating problem. Programs of education on drug and alcohol abuse have been incorporated into the curriculum as informative preventive measures in elementary and secondary schools.

The school administrator, in addition to actively supporting his/her school's educational program on drug and alcohol abuse, can initiate or intensify other measures which are preventive in nature. Most important of these is constant supervision and patrol of the school grounds and parking lots. Teachers and aides who patrol these areas should be aware of the properties and forms of the various drugs they may find or observe in an exchange between students. They should also enforce rules which do not permit students or outsiders to loiter or trespass on the school grounds or school's parking lots. (See Administrative Regulation 1208-6 which cites Penal Code 647a in making it a misdemeanor to loiter about any school or public place at or near which school children attend; Los Angeles Municipal Code Section 63.94, Ordinance 77,000, which provides that no person shall use or play in or upon, or trespass in or upon the grounds of any public school in the city; Board Rule 2251c, which identifies standards for student behavior, prohibits pupils from remaining in their cars or other cars while parked near the school.) Any unusual rumors or circumstances should be reported to the principal immediately. The principal, according to Administrative Regulation 1208-9, should report to the Pupil Services and Attendance Branch any local establishments (liquor stores, bars, etc.) which he/she feels may be a contributing factor to a school drug or liquor problem.

Where alcohol or drugs are found on school grounds, decisive action is necessary. In the case of alcoholic beverages, the intoxicant should be confiscated and the student's parents contacted. In accordance with the particular circumstance, the principal may not consider it necessary to contact the police unless the child is ill or abusive, or the source of the alcohol is presenting a particular problem to the school.

Where a student is suspected of having narcotics or dangerous drugs in school, it is advisable, if time permits, to contact police to assist in confiscation, particularly where more than one person is involved. The administrator should confiscate the narcotics, with or without police assistance, from the student's person, locker, desk, or other location, taking care to see that the suspect does not destroy the evidence by taking the narcotic, or disposing of it in some way.

With respect to searches of a student's locker, court cases have upheld the validity of locker searches by school administrators where the search is within the scope of the school's duties and the administrator has reasonable cause to believe that there is contraband (narcotics, intoxicants, weapons) in the locker [In re Christopher W., 29 C.A.3d. 777 (1973); In re Fred, 26 C.A.3d. 320 (1972)]. Where it is possible, the student should be present during the search of his/her locker along with several adult witnesses. The confiscated narcotics should be turned over to the police immediately for further investigation. If the narcotics are seized as a result of information obtained from an informant, his/her identity should be protected at all times.

If a person is found to be under the influence of narcotics, he/she should be isolated from other students (possibly in the nurse's office). The pupil's condition should be verified by the nurse or other qualified school personnel, and the local police or sheriff should be called to transport him/her to the hospital, the parent or guardian should be called and told that the child is ill and that they should meet the police or sheriff at the hospital.

If a student is apprehended with drugs or liquor, the administrator should consider immediate suspension and possible expulsion under Board Rule 2280 which cites Education Code Section 10603 (suspension and expulsion for drugs) and Business and Professions Code Section 25608 (misdemeanor to possess or consume alcoholic beverages on school premises). This would include violation of California Administrative Code, Title 5, Section 14251 which forbids carrying intoxicating liquor in a school bus at any time. Education Code Section 10603 also requires any law enforcement agency that arrests a student on drug charges to give written notice to the school district when charges are filed as a result of the arrest. Where charges are not filed, the notification is optional on the part of law enforcement authorities. Division of Educational Support Services Bulletin Number 5 outlines the content and use of these notices. See Division of Educational Support Services Bulletin Numbers 21 and 43 for procedures regarding pupil suspension. Expulsion procedures are outlined in Division of Educational Support Services Bulletin Number 15. According to Administrative Regulation 1208-4, incidents of pupil possession of liquor or narcotics may be referred to the Pupil Services and Attendance Branch for consultation and legal action.

There are several laws which impose penalties on persons furnishing liquor to minors, public intoxication, and minors in possession of alcholic beverages. A person who is found in any public place under the influence of intoxicating liquor or any drug is guilty of disorderly conduct, a misdemeanor, under Penal Code Section 647(f). Los Angles Municipal Code Section 41.27 forbids any person from appearing in a state of intoxication upon any premises owned or occupied by any municipality or governmental agency or instrumentality. It also proscribes the drinking of liquor containing more than 1/2 of one percent of alcohol by volume in any public place. Under Business and Professions Code Section 25658, every person who sells or furnishes liquor to any person under 21 years of age, and any alcoholic beverage sale licensee who permits a person under 21 to consume any alcoholic beverage in the on-sale premises, is guilty of a misdemeanor. Section 25658 also makes it a misdemeanor for any person under 21 to purchase or consume any alcoholic beverage in any on-sale premises. Any person under the age of 21 who has any alcoholic beverage in his possession on any street or in any public place or place open to the public, except where making a delivery pursuant to an order of his/her parent or in the course of employment, is guilty of a misdemeanor according to Business and Professions Code Section 25662. Every person who possesses, consumes, sells, gives, or delivers any alcoholic beverage on the premises of any public school, except where used in the course of instruction with administrative approval, is guilty of a misdemeanor under Business and Professions Code Section 25608.

In the area of drug and narcotic abuse, criminal sanctions are imposed on several forms of conduct. (Sanctions mentioned herein in this regard are only for first offenses.) One form of conduct for which penalties are imposed is possession. Where a person is found in possession of a restricted dangerous drug (defined in Health and Safety Code Sections 11056 and 11057) without having a prescription, Health and Safety Code Section 11377 mandates a sentence of up to one year in county jail or 1-10 years in state prison. Possession of marijuana is also similarly punishable according to Health and Safety Code Section 11357. Where a person is found to have in his/her possession narcotics other than marijuana, Health and Safety Code Section 11350 states that he/she may be sentenced to state prison for at least two years. It is unlawful to possess any device or paraphernalia used for unlawfully taking drugs (Health and Safety Code Section 11364 [as amended 1973]). Health and Safety Code Section 11550 makes one who unauthorizedly uses or is under the influence of a controlled substance liable to punishment for a misdemeanor mandating 90 days to one year's imprisonment in the county jail.

Health and Safety Code Section 11365 makes it unlawful for a person to visit or to be in any room or place where marijuana, heroin, LSD, or like drugs are being used when the visitor knows that such activity is occurring.

Possession of narcotics or drugs for sale is viewed as a more serious offense than mere possession and, therefore, is subject to stiffer penalties. Health and Safety Code Section 11378 prescribes a sentence of 2-10 years in state prison for a person found guilty of possession of dangerous drugs for sale. The same penalty, 2-10 years in state prison, is prescribed by Health and Safety Code Section 11359 for possession of marijuana for sale. Where a person is found to have possessed narcotics, other than marijuana, for sale, he/she may be sentenced to state prison for 5-15 years without release or parole for at least 2-1/2 years. Every person who plants, cultivates, or processes marijuana is guilty of an offense which may be punished as either a felony or a misdemeanor (Health and Safety Code Section 11358). But every person who sells, offers to sell, transports or gives away marijuana is guilty of a felony (Health and Safety Code Section 11360).

Health and Safety Code Section 11382 makes agreeing or offering to sell, furnish, transport or administer any controlled substance to another punishable as either a felony or misdemeanor at the court's discretion.

With regard to the drug problem among young people, the legislature has enacted statutes imposing severe penalties on those who, in any way, expose minors to contact with drugs or narcotics. Health and Safety Code Section 11380 declares that any person 18 or over who violates provisions regarding restricted dangerous drugs by use of a minor as agent, or who induces the minor to violate provisions regarding restricted dangerous drugs shall serve 10 years to life without parole for at least 5 years. This penalty is also imposed by Health and Safety Code Section 11361 on any person 18 or over who uses a minor in preparing, carrying, or selling marijuana, or who offers or sells it to a minor, or who induces a minor to use it. Similarly, Health and Safety Code Section 11353 provides that every person 18 or over who induces, encourages, or intimidates any minor with intent that the minor shall knowingly violate any provision relating to illegal narcotics, other than marijuana, shall be imprisoned for 10 years to life without parole for at least 5 years. A person under 18 years of age who is guilty of any of the acts described in Health and Safety Code Section 11353 is subject to a prison sentence of not less than 5 years under Health and Safety Code Section 11354.

See pages G-4 and G-5

For specifics regarding policies and procedures for controlling, handling, and reporting drug abuse activities among pupils, referral is suggested to Drug Abuse Control, a 1973 publication, issued by the Office of the Superintendent to all school administrators

Fights Between Groups and Individuals on Campus

Activity which disturbs the educational program or interferes with the daily operation of the school hampers the ability of students to pursue a normal course of study as mandated by law. Fights between groups or individuals on or near school grounds are disturbances that tend to disrupt and run counter to the legitimate purposes of an educational program.

The ever present potential for school disturbances as well as the frequency of campus disturbances make it imperative for administrators to familiarize themselves with preventive measures and procedures that deter such activity.

First, a distinction must be made between students who are legally on school grounds and engage in illegal activity and outsiders or students from other schools who, by virtue of their very presence, subject themselves to additional sanctions. (See section on Loitering and Trespassing.) Preventive measures and procedures are the same for students or outsiders that are involved; it is the subsequent sanctions that vary depending upon the status of the individuals or the severity of the activity. This section addresses itself to those students who are on campus legally but engage in illegal activity.

Since California Administrative Code, Title 5, Section 5551 makes the principal responsible for the administration and supervision of his/her school, when a fight occurs, the decision to mobilize in accordance with a predetermined plan of action and/or seek assistance rests with him/her.

The State Board of Education has mandated in California Administrative Code, Title 5, Section 5800(m) that the principal "manage all the affairs of the school including general control and supervision of all employees". Similarly, Board policy dictates that every school administrator devise a plan of action to meet problems of disturbance and disorder (see Office of Administrative Services Bulletin Number 20B) and provides information to assist him/her in doing so.

The governing board of every district can prescribe rules to deal with school disturbances that are not inconsistent with law or with the rules of the State Board of Education (Education Code Section 925). Specifically, Board Rule 2265 authorizes the Superintendent to establish methods of controlling pupil behavior. With statutory authority to prescribe rules under Education Code Section 925 and policy guidelines suggested to principals by Office of Administrative Services Bulletins Numbers 20A and 20B, implementation and utilization of any or all procedures and preventive measures are at the discretion of the local principal. Office of Administrative Services Bulletin Number 20B gives a comprehensive plan of action to help deter disturbances when they threaten.

Preventive actions may include:

a. Request the security agent to place under surveillance the area where the disturbance is likely to occur.

b. Direct the administrators of the school to supervise the grounds.

c. Notify the security section to dispatch a car to patrol near the school.

d. Notify community resources from whom additional assistance is desired.

e. Notify the Area Superintendent and give an account of the situation.

f. Inform teachers to secure their classrooms when directed.

g. Establish lines of communication and rapport with faculty, students, parents, and community.

h. Keep abreast of and understand the issues and causes developing within the school.

i. Express a willingness to listen to requests and complaints.

j. Enlist the support of individuals and groups to seek solutions to problems.

If a fight occurs, the principal, security agent, other administrators, and certificated staff selected to assist have the responsibility to exercise the necessary amount of physical control and to maintain proper order short of jeopardizing their own safety and the safety of others (Education Code Section 13557).

Procedures

If the situation cannot be controlled or there appears to be a threat of injury or serious bodily harm, Office of Administrative Services Bulletin Number 20B suggests that the principal or a designated representative call law enforcement agencies to help clear the campus from any and all disturbance "to safeguard the welfare of pupils and school personnel and to protect school facilities".

If law enforcement officials are called, it is important for principals to control the situation during the interim, before their arrival. Suggested steps include:

a. Assign responsible staff members to receive and direct all telephone calls related to the emergency.

b. Provide members of the administrative staff with emergency telephone numbers.

c. Assign an administrator to relay the principal's directives to those designated to receive them and send for help.

d. Secure the school public address system and assign the responsibility for its use to a staff member.

e. Notify teachers through the public address system of the disturbance and use a prearranged code to give necessary instructions for the safety of other pupils.

f. Establish a closed campus:

    1. Provide one entrance and one exit.
    2. Require those entering to give appropriate identification.
    3. Provide those entering with proper identification.

g. Inform teachers of automatic extended class periods to avoid additional involvement of students for student safety.

h. Direct teachers to identify and secure names of witnesses, victims, participants, and other pertinent information.

i. Direct students or groups of students involved in the disturbance with the use of an amplified sound system to:

    1. Desist under threat of suspension or expulsion; cite authority (Education Code Sections 13558.5 and 16675).
    2. Return to class or leave campus and return to their homes.
    3. Cease the disturbance or they will be subject to arrest.

If pupils persist in unlawful activities following a second warning, notify pupils of their suspension and direct them to leave campus. If students remain on campus, call police to arrest them under authority granted by Penal Code Section 626.8 and Education Code Section 16675

The principal is authorized to establish specific procedures to be followed by teachers when pupil behavior indicates the need of assistance in developing self control (Administrative Regulation 2265-5).

If a teacher observes some pupils about to engage in a fight and the circumstances are such that he/she can prevent the act, Education Code Section 13557 authorizes this to be done. The teacher shall enforce . . . the rules and regulations prescribed for schools (Education Code Section 13556).

If the fight or disturbance occurs or threatens to occur where a crowd situation is likely to develop, such as in the grandstand or on the campus before, during or after athletic contests, the teacher should: (1) dispatch a student to get help from the principal; (2) dispatch a student to seek help from other teachers; (3) disperse nearby students exposed to the threat of injury; (4) urge the combatants to desist from their activity; and (5) maintain whatever control over the situation and the students that is reasonably possible under the circumstances.

If the situation gets so out of hand that the educational program is completely disrupted and tensions materially affect the instructional program, notification should issue to the Area Superintendent that the school will be closed to protect the welfare of students in attendance. Confirmation of the principal's decision by the Area Superintendent would serve as the necessary preliminary step tantamount to the Superintendent's authority to direct the closing of any school whenever, in his/her discretion, such closing appears necessary to insure the health or safety of the pupils. Such action shall be submitted to the Board for confirmation at its next meeting. Subsequent reopening of any school so closed shall be authorized when the Superintendent determines that the conditions which necessitated the closing have ceased to exist (Board Rule 1103).

The procedures enumerated above would also apply to disturbances between individuals or groups of individuals involved in racial disorder, gang activity, or other forms of turbulence.

If outsiders or students from other schools are involved, the procedures to follow for controlling the disturbance remain the same, except that the Area Superintendent should notify principals of neighboring schools regarding the unlawful presence of their students on another campus.

When group disorders are accompanied by racial overtones or involve racial confrontations, school-community consultants from the Urban Affairs Office should be involved to help reduce tension and aid in a viable solution. The principal should arrange a meeting with student representatives, community leaders, and parent advisory groups to help identify the problems and get input for alternative solutions.

Language involving the threat of force or violence against other students or school personnel could be interpreted as tending toward a breach of the peace and serve as a basis for suspension (Board Rule 2280:12; Education Code Section 10602).

Homeroom periods as well as English and Social Science classes provide practical avenues for creating an awareness among students of their duties and responsibilities under the law.

While on school grounds or in conduct related to school activity, California Administrative Code, Title 5, Section 301(b) states that all pupils must refrain from willful or negligent conduct likely to result in injury to other pupils or school employees . . . . All students shall conform to regulations of the school, obey directions of and respect teachers and others in authority and observe good order and propriety of deportment (California Administrative Code, Title 5, Section 300).

In the 1960 edition of Bancroft-Whitney Company's California Words, Phrases and Maxims, it is stated on page 747 that "Fighting" has a well defined meaning and is itself unlawful; persons cannot willfully and unlawfully disturb the peace by fighting without intent to do a wrongful act (Larue v. Davies, 8 C.A. 750).

Students who fight on or near school grounds are subject to suspension, expulsion, and criminal action depending on the severity of injury or damage inflicted upon others. Such activity is contrary to the welfare and best interests of other students (Administrative Regulation 2262-5) if it obstructs or disrupts the educational program of the school or prevents a student, teacher, or other school authority from attending class or performing his duties.

A principal has authority to suspend a student for good cause (Education Code Section 10601.5). Board Rule 2280:1, 2, and 12 enumerate relevant examples of good cause such as continued willful disobedience, persistent defiance of the authority of the teacher, and assault or battery, or any threat of force or violence directed toward school personnel or students. A teacher also may suspend a student for good cause (Education Code Section 10601) from his/her class for the day of suspension and the day following. A report must be made to the principal along with a request for a parent conference.

Willful injury to another pupil or employee as a result of a fight constitutes grounds for suspension or expulsion (Board Rule 1711). As designated in Board Rule 2282, suspension may not be for more than 5 days nor for more than 20 days cumulative, in one school year. If suspension is to be of more than two weeks' duration, approval of the Area Superintendent in charge of the school must be obtained.

Suspension does not necessarily mean complete removal from school premises. It may constitute removal from only one class depending on the circumstances. However, the pupil cannot return to class without the concurrence of the teacher and the principal if this situation arises. (See Division of Educational Support Services Bulletins Numbers 1 and 43. Whenever a student is suspended from school, his parent or guardian should be notified in writing by either the principal or a designated representative (Education Code Section 10607.8).

The circumstances of the disturbance may warrant administrative action toward expulsion. Under such circumstances, the principal of the school shall organize the evidence, suspend the pupil, but not for more than two consecutive weeks, and notify the parents by a registered letter giving the reasons for such actions and provide opportunity for a hearing. Then the Board shall consider expulsion of a pupil upon the recommendation of the Superintendent. Expulsion procedures are set forth in Division of Educational Support Services Bulletin Number 15.

If a student is on probation at the time he/she engages in a fight, the student is subject to additional disciplinary measures. He/she can be adjudged insubordinate or disorderly by the principal and reported for either of these offenses to his/her probation or parole officer (Education Code Section 10607).

Students are subject to sanctions mentioned herein regardless of where on school premises the particular disturbance might occur. If on or near a school bus, Board Rule 2259 authorizes disciplinary measures for any action endangering the safety of other bus pupils. If at athletic events or extracurricular activities that might extend beyond regular hours, fights that disrupt or obstruct any authorized activity are contrary to the welfare and best interests of the students and are subject to disciplinary measures (Administrative Regulations 2262-5).

If fights occur at extracurricular events, the principal should implement pre-arranged plans and exercise his/her best judgment in securing help from security agents on duty, fellow administrators, and teachers to restore control of the situation.

Penalties

This section deals only with local school students who commit illegal acts; it does not refer to outsiders or students from other schools who might cause disturbances. Penal Code Sections 626.8, 647, and 653g deal with the latter group. For the purposes of this section, whenever a fight erupts, procedures for control remain the same regardless of who are involved.

If a student commits an assault on another with a deadly weapon or instrument or by any means of force likely to produce great bodily injury, Penal Code Section 245(a) states that such act is punishable by imprisonment or fine or both. Additionally, if a student commits an assault on a police officer or fireman engaged in the performance of his/her duties, it is punishable by imprisonment for six months to life.

Office of the Superintendent Bulletin Number 7 forbids the possession of deadly weapons on or near school grounds. If students use deadly weapons in a fight or have them in their possession, they are subject to alternative sanctions under criminal law. (See section on Dangerous or Deadly Weapons for appropriate laws and suggested procedures.)

Where two or more persons acting together disturb the public peace by using, threatening to use or urging the use of force or violence, the misdemeanor of "riot" is committed (Penal Code Sections 404, 404.6, 405).

Gang activity in which threats of violence are used will often constitute "riot" and the administrator should remind police that they can arrest gang members who act or threaten in concert for "riot."

Rout is an unlawful assembly in which two or more persons assembled and acting together make an attempt to advance toward commission of an act which would be riot if actually committed. Rout is a misdemeanor (California Penal Code Section 406).

Procedures To Care For Students Injured In Fights

To prepare for instances where a student cannot readily provide information necessary to secure parental consent for hospital care, etc., the school does require that every student submit an emergency information card at the beginning of the school year containing such information. (Refer to Division of Educational Support Services Bulletin Number 39.)

Students who are injured should be given first aid by the school nurse or other personnel authorized to give first aid. An ambulance can be summoned if the nurse or other appropriate school official determines that an injury is so severe as to require additional medical attention. Division of Educational Support Services Bulletin Number 28 outlines who pays the costs of emergency hospital service. It also tells the school administrator whom he/she should contact at the District's Health Resources Branch.

Injuries inflicted upon minors by other than accidental means must be reported by designated school personnel. Those persons not so designated should notify the school administrator. Procedures are outlined in the Division of Educational Support Services Bulletin Number 22.

Administrative Regulation 2325-5 lists procedures to follow in case of serious accidents to pupils.

Reporting Violations

If a fight occurs on or near school grounds and results in serious injury, it is the duty of the chief school administrator to notify appropriate law enforcement authorities of Penal Code violations enumerated under Section 245 (Education Code Section 10605.5). School employees and supervisors (having knowledge) have a duty to report an assault by a pupil against an employee to the appropriate law enforcement authorities of the County or City (Education Code Section 12916).

An act punishable in different ways under the law may be prosecuted under any of such provisions but punished under only one provision (Penal Code Section 654). If individuals are trespassers or can be treated under alternative provisions dealing with deadly weapons, refer to appropriate sections that deal with these disturbances in this handbook. Matters of serious misconduct other than those specified in Board Rule 1208 may be referred to the Pupil Services and Attendance Branch for consultation or legal action (Administrative Regulation 1208-4).

The school may document records of deviant behavior to help with the guidance of a pupil as well as for supporting evidence where suspension or expulsion may become necessary (Administrative Regulation 2265-2).

Investigation By Police Of Pupils

In the event law enforcement officials are summoned on campus to assist in controlling a disturbance or to receive reports of code violations, they may be allowed to interview pupils in the presence of the principal or a teacher (Board Rule 1204) assuming they have jurisdiction over the area where the school is located. Every law enforcement official (with the exception of a uniformed police officer) should present proper identification as a prerequisite to the interview.

If an arrest is made for an injury inflicted on another student or school employee or for damage sustained to school property, students may be taken from school by law enforcement officers when an arrest is made (Education Code Section 13013). Responsibility to notify parents of pupils taken from school by a law enforcement officer rests with the principal. To protect the school district, the school administrator should maintain a record of the school's efforts to reach the parent (Division of Educational Support Services Bulletin Number 3). Peace officers have the right to interview suspects or witnesses who are students while those students are in attendance at school (Cal.Atty.Gen.

Opin. No. 71-28, 54 Ops.Cal.Atty.Gen.96 at page 97). For this reason, school personnel should not hinder properly identified law enforcement officers from carrying out their duties.

Arrests

A public officer or employee . . . may arrest a person without a warrant . . . if he/she has reasonable cause to believe that the person to be arrested has committed a misdemeanor in his/her presence (Penal Code Section 836.5[a]).

If school personnel choose to make an arrest, they do so as private citizens (Penal Code Section 836).

Whenever feasible, arrests should be handled by the local law enforcement agency or the security agent assigned to serve the local school.

The suggested actions are by no means limited to the preventive measures and procedures mentioned herein. Principals are encouraged to implement what they believe to be the most effective measures for their particular school. These materials are meant to reinforce an administrator's systematic approach to the problems that arise where circumstances might not otherwise lend themselves to consideration of such procedures.

Loitering, Sit-Ins, Trespassing, Walk-Outs

In order that public schools may pursue the business of education with a minimum of disturbance or disruption, it is essential that only those having legitimate business on a school campus be permitted thereon. To support the continuity of this essential governmental activity, the Legislature has expressed its concern for the uninterrupted and orderly operation of schools through various enactments. For example, Education Code Section 13558.5 states that anyone "over 16 years of age . . . who is not a pupil of the school . . . who comes upon any school ground or into any schoolhouse and there willfully interferes with the discipline, good order, lawful conduct, or administration of any school class or activity of the school, with the intent to disrupt, obstruct, or to inflict damage to property or bodily injury upon any person, is guilty of a misdemeanor".

Pursuant to its power to "prescribe rules . . . for the government and discipline of the schools under its jurisdiction" (Education Code Section 1052), the Los Angeles Unified School District Board of Education has mandated in Board Rule 1265 that "No Person shall visit or audit a classroom or other school activity, nor shall any person remain on school premises, without the approval of the principal or his authorized representative". Further, "Rule 1265 shall apply to children as well as adults" (Rule 2002).

Attentiveness to the welfare of pupils and to the continuation of school operation is also found in Section 63.94 of the Los Angeles Municipal Code which forbids the use or occupation as well as the playing or trespassing on the grounds of any public school in the city by persons other than children present under authorized supervision provided by the school.

Also serving as a legislative deterrent to disruption of the school program is Penal Code Section 626.8(a) which makes it a crime (misdemeanor) for "any person who comes into any school building or upon any school ground, or street, sidewalk, or public way adjacent thereto, without lawful business thereon, and whose presence or acts interfere with the peaceful conduct of the activities of such school or disrupt the school or its pupils or school activities, and who remains there, or who reenters or comes upon such place within 72 hours, after being asked to leave by the chief administrative official, the person acting as the chief administrative official, or by a member of the security patrol of the school district who has been given authorization, in writing, by the chief administrative official of that school to act as his agent in performing this duty . . ." See page CI-30 for illustrations of pupil conduct which may be constitutionally protected.

Laws and rules, therefore, exist to support administrative action in handling illegal presence on a school campus and/or legal presence engaged in illegal activity. In order to resolve either or both such situations and hasten the school's return to normal activity, the administrator might find the following actions appropriate:

1. When the presence of an individual, or group of individuals, not having legitimate business on campus, is reported to the principal, it would be prudent to:

    a. Notify the school secretary and/or other clerical staff present that he/she will confront the individual(s) and may need assistance.

    b. Advise that another staff member be sent to follow-up within the next 10 minutes if the principal does not return.

    c. Through a prearranged code, use the school public address system to alert all teachers to the situation in the critical area.

        (1) Classroom doors and records would be secured by teachers.

        (2) Teachers hold class in room until passing signal comes from main office; continue teaching.

    d. Request another adult to accompany him/her to the scene as a witness and to help with both identification and description of trespassers. Both should carry pad, pencil and camera.

    e. Advise outsiders of your (principal's) position and ask for their identification and their business on campus.

    f. If any outsider(s) refuses to comply, warn that peaceful operation of the school is being disturbed, that the outsider is in violation of Education Code Section 16675 and/or Education Code Section 13558.5, and that each is ordered to leave the campus immediately.

    g. Advise that failure to leave the campus upon request is violation of the law and a crime under Penal Code

Section 626.8, and that failure to leave a school building when it is regularly closed to the public is a misdemeanor (Penal Code Section 602 [p]).

h. If outsiders remain on campus, call police, explain the situation, and ask that arrest(s) be made.

i. File a complaint with city (or district) attorney's office and indicate availability when needed.

j. If the outsiders disperse as police are sighted, provide law enforcement officers with identification and/or description of as many trespassers as possible, and a description of the sequence of events, including conversations or remarks, as they occurred. Inform Area Superintendent accordingly.

k. Activate "incident log" by noting date, time, nature of incident. names of persons involved, and description of action taken.

2. If pupils of the school should singly or by group refuse to go to class, interfere with classroom attendance of other students, attempt to induce others to leave class, engage in walkouts, or demonstrate in any other form which interferes with normal school operation, it would be judicious to:

   a. Proceed as in 1a, 1b, and 1c above.

   b. Personally advise students that there are legitimate modes for resolving grievances and suggest a meeting with a leader or small group of leaders selected by the students.

   c. Enjoin all other students to go directly to class.

   d. Indicate that students who fail to follow directions are subject to disciplinary removal and, possible, suspension.

   e. If students do not cease disruptive activities and return to class, follow procedure in 1h above.

   f. Notify parents of incident, of actions or involvements of minor children, and call each to a conference.

   g. Add totality of incident to log.

3. If a group of pupils by force of numbers take over, occupy, and refuse to leave classroom, office, library, auditorium or

other space normally used to support the educational program, the school administrator should keep in mind that: Sit-ins are usually illegal because they frequently involve violation of a number of laws, such as trespassing or blocking the passage of pedestrians. Even when the administrative decision is to allow the sit-in to continue taking place, public officials have the right to exclude unauthorized intrusions into nonpublic parts of the property.

Persons who trespass with the purpose of interfering with, obstructing or injuring the lawful business or occupation of a person legally occupying the land are guilty of a misdemeanor. [California Penal Code Section 602 (j).] It is also a misdemeanor for anyone to refuse to leave a public building during hours of the day or night when it is regularly closed to the public. [California Penal Code Section 602(p).]

If two or more persons gathered together for the purpose of committing an unlawful act fail to disperse upon command of a public officer, they are guilty of a misdemeanor. (Penal Code Section 416).

Willful and malicious obstruction of a person's free movement in any public place or place open to the public is a misdemeanor (Penal Code Section 647c).

Discretion would indicate that the principal should:

a. Keep non-participants away and uninvolved by using "free" staff members to isolate sit-ins.

b. Maintain an emergency schedule, if possible, which would remove students assigned to the occupied room or facility to other suitable space.

c. Have teachers secure classroom doors and eliminate unessential student passage in halls and on grounds.

d. Advise by some type of sound amplifier that the group is unlawfully occupying public property, interfering with the school's instructional activities, and that each member of the group (and his/her parents) is liable for any damage or destruction to property.

e. Advise that the group is serving no useful or constructive purpose by its action. Indicate that established means are available for taking care of grievances.

f. Suggest a meeting in your office (or other neutral campus site) with one or more group leaders to discuss the group's concerns.

g. Attempt to enlist aid of parents of ringleaders while site occupation by students continues.

h. Order all others to go to their scheduled classes.

i. Learn and record identity of disruptive students.

j. If students persist in occupation of physical facility, follow procedure in 1g and 1h above.

k. Incorporate all details of disruption in incident log.

4. When groups of individuals express their opposition to conduct, practices, regulations, or activities of the Board of Education or administration by means of picketing, it is incumbent upon the school administrator to:

   a. Maintain normal school operation, if possible.

   b. Advise teachers to conduct classes with vigor and alertness.

   c. Limit, as far as possible, the egress of pupils from buildings.

   d. Try to ascertain the number, identity, and association of the picketers and the nature of their grievance(s).

   e. Notify the Area Superintendent and Security Section of the local situation.

   f. Initiate a dialog with the group leader designed to remove the picketers from the school site.

   g. Warn leader of picketers against any unlawful acts, or violent or boisterous conduct (Penal Code Section 407); that it is a misdemeanor to remain at the place of an unlawful assembly (Penal Code Section 409); that it is forbidden to annoy, molest, or unreasonably interfere with the free passage of pedestrians in and out of school. (Municipal Code Section 41.18[a]).

   h. Maintain log of sequence of picketing activities, persons and groups involved, content of signs, contacts with groups, discussions, and actions taken.

5. Another aspect of trespass are those situations where unauthorized or ineligible individuals attempt to "crash" a school dance, assembly entertainment, or athletic contest. In most instances, pre-planning and adequate supervision will minimize the potential disruptive effects of non-sanctioned actions. The smooth, undisturbed functioning of such events is generally the result of careful organization, full communication to students of guidelines or regulations which govern the occasion, and fair enforcement of local procedures.

   When students who desire to participate in such special school activities create the atmosphere that makes "crashers" undesirable and unwelcome, these functions will become less attractive targets for those who challenge regulated forms of procedure. However, administrative prudence requires that alertness be constant to the possibilities of disruption, that conscientious efforts be exercised to forestall any intruders, and that prompt action be taken to identify and remove the trespassers. Procedures listed in 1e - 1k above are the essential steps to be taken under such circumstances.

From time to time the school campus or its vicinity becomes a focal point for loiterers, idlers, and others who linger about without apparent purpose. Not only is such nonconstructive activity a poor model for school children, but it could become a detriment to both the safety and welfare of pupils if permitted to continue without challenge. Recognition that loafing or idleness may be both dangerous and inimical to student well-being has resulted in the Legislature's making it a misdemeanor to either loiter about schools or other public places attended by children (Penal Code Section 653 g) or to loiter about or molest persons in attendance at schools furnishing courses to adults. (Penal Code Section 647 b). The potential harmful effects of loitering have also been identified by the Los Angeles City Council in Municipal Code Section 103.118(1) wherein it has been declared a misdemeanor for anyone to loiter about premises at which a teenage dance is being conducted, in Section 41.18(b) wherein it is forbidden to loiter in any tunnel, pedestrian subway, or on any bridge overpass, and in Section 41.18(a) wherein persons are prohibited from annoying or molesting pedestrians on any street, sidewalk, or other public way open for pedestrian travel.

Although Board Rule 1265 requires campus visitors to secure administrator approval for presence on school premises, it should be noted that the Court's ruling in People v. Hirst, 31 C.A.3d 75 stated that outsiders' presence on school grounds during lunch hour for the purpose of distributing leaflets and talking to students about matters of public concern is for a "lawful" purpose and thus does not constitute loitering. Such activity is speech within the protection of the First Amendment which does not materially disrupt classwork or involve substantial disorder or invasion of the rights of others.

Distinguishable from the above are instances where a person accosts others in a public place for the purpose of begging. Such conduct constitutes disorderly conduct, a misdemeanor [California Penal Code, Section 647 (c)].

Whenever two or more persons assemble together (1) to do an unlawful act or (2) to do a lawful act in a violent, boisterous or tumultous manner, the assembly constitutes "unlawful assembly" a misdemeanor (California Penal Code Section 407).

Remaining at the scene of a disturbance after being lawfully ordered to disperse is a misdemeanor (California Penal Code Section 409).

Penal Code Section 647, subdivision (e) makes a misdemeanor any person's (1) refusal to furnish identity, (2) by one loitering on the streets, (3) under circumstances that infringe upon the public safety, (4) when a peace officer has requested the identification. In order to uphold this statute's constitutionality, the courts have narrowly interpreted it to mean that the suspected loiterer can be arrested for failure to furnish a peace officer with reliable identification, not for failure to "account for his presence" (People v. Solomon, 33 Cal.App.3d 429; 108 Cal.Rptr. 867).

Since loitering is an improvident activity, at times difficult to detect, caution and circumspection would suggest that:

a. A polite challenge be immediately addressed by any staff member to one who appears to be loitering on campus.

b. An effort be made to assure a fairly comprehensive description of the loiterer while asking him to leave the campus if he has no legitimate business there.

c. The staff be alerted to points on or near the campus perimeter where idlers are observed or where non-school groups tend to congregate.

d. Active efforts be made to secure descriptions of individuals who "hang around" areas adjacent to or within view of school premises.

e. Security and local police be notified of both presence and description of off-campus loiterers.

f. Pupils be warned against responding to, conversing with, mingling or associating with, or in any manner encouraging communication with loiterers and idlers.

g. Enlist support of advisory council in eliminating loitering from campus perimeter.

Vandalism (Destruction of School Property)

As a public servant, a school administrator has the responsibility to preserve and protect school property thereby insuring maximum use and return of the public's investment in the education of its youth. A corollary responsibility is to assure an environment in which the property of pupils and staff is safeguarded. Since the range of destruction (other than accidental) is limited only by the imagination, capability, and willfulness of the perpetrator, the school administrator is required, wherever possible and within the scope of laws and rules, to initiate promptly the processes of repair, repayment, or restitution. Both the California Legislature and Los Angeles Board of Education have enacted measures to protect local school property and to hold responsible those who destroy it. Among the forms of student conduct proscribed by California Administrative Code, Title 5, 301 is willful or negligent conduct likely to result in damage.

A school administrator, who has full responsibility for all property located at or belonging to his/her school (Board Rule 1703), regularly considers preventive measures which may be taken to avert destruction of property. By both precept and example, respect for the property rights of others is a maxim which the local school environment should foster (California Education Code 13556.5). Board Rule 1711 declares that teachers shall exercise special precaution to impress the pupil with the value of preserving books and other library materials.

On an operational level, school security procedures play a major role in protecting school property. One preventive measure would be to schedule, as far as practicable, the patrolling of the school grounds, particularly perimeter areas and restrooms. Another precaution would be the locking of unused areas and rooms in addition to the thorough securing of the campus in the evening. Security could be further enhanced by instructing all staff members to report any plant deficiencies which might facilitate vandalism and any circumstances which indicate that destructive activity is in progress or has taken place. Where major campus disturbance is in progress, particular care should be taken to guard and secure school files and records.

When property damage occurs, it is incumbent upon administrators, when possible, to mitigate destruction or loss and to bring those responsible to account. It would be expected that where property damage is minor, the principal will handle the matter with whatever discretion and judgment is appropriate in the particular instance. In cases of major property damage or loss, however, the principal should notify the Security Section, local police, and the Area Superintendent immediately by telephone. Administrative Regulation 1208-1 states that: "Each case of burglary, theft, malicious mischief, arson, or other crime affecting property in schools or offices shall be reported by telephone to the Security Section immediately upon discovery. All cases of burglary should be reported to the local police or sheriff's department by the principal or other administrative head. All cases of theft, arson, or malicious mischief where there is more than minor loss (i.e., over $25) or damage should also be reported to the local police or sheriff's department." Additionally, Administrative Regulation 1208-2 states that all losses should be reported immediately by telephone to the Insurance Office, Business Division. See Business Division Bulletin Number 1 for procedure in this regard. If the destruction involves personal property of school employees, they should be made aware of Board Rule 1672 which allows for replacement or repair of damaged personal property, including a vehicle, caused by malicious acts.

Where the perpetrator of minor damage is unknown, attempts to secure evidence may be undertaken through questioning of students or members of the staff who might have observed or have heard something about the incident. It is important that this take place as soon in time as possible after the occurrence. Where major damage has occurred, the Security Section and/or the local law enforcement agency would be expected to conduct the investigation with the principal's full cooperation. In this regard attention is called to the fact that California Government Code Section 53069.5 enables a local agency (the School District in this case) to offer a reward for information leading to the apprehension of any person who willfully damages or destroys any property of the local agency. The culpable person, or his/her parents if he/she is a minor, is liable for the amount of the reward.

It would be expected that there would be local disciplinary follow-up in addition to necessary legal filing in cases where a student is found to have caused the destruction of property. Policy with regard to forms of discipline, i.e., suspension and expulsion, is embodied in California Education Code Section 10605 (and Board Rule 2280) to the effect that the governing board of any school district shall suspend or expel pupils for misconduct when other means of correction fail to bring about proper conduct. More specifically, Board Rule 1711 states that willful damage to school property is grounds for suspension or expulsion. Authority for suspension or expulsion also comes from California Administrative Code, Title 5, Section 305 which states that any pupil who defaces, damages, or destroys any school property shall be liable to suspension or expulsion, according to the nature of the offense. For guidelines regarding suspension procedures, see Division of Educational Support Services Bulletin Numbers 21, 43. See Division of Educational Support Services Bulletin Number 15 for procedures regarding pupil expulsion.

Destruction of school property inevitably raises the question of who is liable for the damage. California Government Code Section 53069.6 states that each local agency (the School District in this case) shall take all practical and reasonable steps to recover civil damages for the negligent, willful, or unlawful damaging or taking of property of the local agency. Upon being informed by the principal of malicious destruction of school property, the Security Section will institute legal action for damages where persons responsible for the destruction can be identified. Actions involving claims up to $500 (jurisdictional limit of Small Claims Court) are handled by the Security Section in Small Claims Court while actions for larger amounts are forwarded to the County Counsel for action in Municipal Court or Superior Court.

Where a student, or any minor, causes the damage, liability is attributed to the parent or guardian. Board Rule 2287 states that the parent or guardian of a pupil is liable for damage to property by the pupil. California Education Code Section 10606 states that a parent is liable for all willful damage by a minor child to school property; also for property belonging to the district loaned to the minor and not returned upon demand of an authorized employee. In a more general vein, California Civil Code Section 1714.1 decrees that willful misconduct by a minor which results in injury or death to another, or injury to property of another shall be imputed to the parent having custody or control of the minor. California Civil Code Section 1714.3 provides that injury to the person or property of another resulting from discharge of a firearm by a minor under 15 years of age shall be imputed to the parent for purposes of civil damages. California Education Code Section 28802 declares that any person who willfully detains any book, paper, magazine, or other property belonging to any public library or other educational institution, for 30 days after written notice requesting the return of the property, is guilty of a misdemeanor. Section 28802 also states that the parent or guardian of a minor shall be liable for all such damages caused by the minor. Further, where destruction of property occurs during an activity held under a permit for use of the school facilities, Board Rule 1315 states that the person or group to whom the permit is issued shall be liable for such damage or loss.

In addition to civil liability, a person who destroys school property is subject to a number of criminal penalties. The Security Section, upon being notified by the principal (as per Administrative Regulation 1208-1) that malicious destruction of property has occurred, is responsible for filing a complaint which initiates any appropriate criminal action. Among the criminal sanctions which may be imposed is California Penal Code Section 594 which states that every person who maliciously injures or destroys any property not his/her own is guilty of a misdemeanor. California Penal Code Section 602(j) makes it a misdemeanor to enter any land for the purpose of injuring any party or property rights or with the intention of interfering with or injuring any lawful business or occupation carried on by the owner of such land, his/her agent, or the person in lawful possession. California Education Code Section 13558.5 states that every minor over 16 years of age or adult who is not a pupil of the school who comes on school grounds and willfully interferes with the normal routine of the school, with intent to disrupt or inflict damage to property, or bodily injury, is guilty of a misdemeanor punishable by a fine of $50 to $500, imprisonment up to 6 months, or both. With regard to school records, California Government Code Section 6201 makes it a misdemeanor or felony for any person to steal, willfully destroy, mutilate, deface, alter or falsify, remove, or secret any record, map, or book filed or deposited in any public office, or placed in his/her hands for any purpose.

One who knowingly and without authorization attempts to make or duplicate, makes, duplicates, or possesses a key to public school premises is guilty of a misdemeanor (California Penal Code Section 469).

Any person who takes the personal property of another with intent to permanently deprive the owner of it is guilty of theft (California Penal Code Section 484).

One who finds lost property and keeps it without having made reasonable efforts to return it to the true owner is guilty of theft (California Penal Code Section 485).

Where the destruction of property was caused by fire, one or more crimes may have occurred. California Penal Code Section 448a states that any person who willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels, or procures the burning of any school or public building shall be guilty of a felony. California Penal Code Section 451a states that any person who attempts to burn or to aid, counsel, or procure the burning of buildings or property is guilty of a felony. It also specifies that the placing or distributing of any flammable or combustible or explosive material in preparation to fire or burn shall constitute an attempt to burn. California Penal Code Section 452 declares that every person who possesses any flammable, explosive, or combustible material or substance with intent to use such material to set fire to or burn any building or property is guilty of a felony. The same section also declares it a felony to possess, manufacture, or dispose of a fire bomb. On a lesser scale, California Penal Code Section 449a states that the burning of personal property worth over $25 is punishable by imprisonment for 1 to 3 years (a felony). California Education Code Section 28801 makes it a misdemeanor for any person to maliciously cut, tear, deface, break, or injure any book, map, chart, picture, or object of curiosity deposited in any public library, museum, fair, or collection.

Destruction of property which occurs on school buses, in addition to being covered by many of the aforementioned rules and laws, is subject to several specific regulations. Board Rule 2255 states that bus conduct shall be consistent with the Education Code and Administrative Code, and shall be complied with by all pupils. Sections of the California Administrative Code, Title 5, in addition to proscribing smoking on buses when pupils are present (Section 14250), intoxicating liquor on buses (Section 14251), animals on buses (Section 14252), and loaded weapons on buses (Section 14253), also defines the bus driver's authority in Section 14263. Section 14263 states, in part, "Pupils transported in a school bus shall be under the authority of, and responsible directly to, the driver of the bus . . . Continued disorderly conduct or persistent refusal to submit to the authority of the driver shall be sufficient reason for a pupil to be denied transportation". Thus, aside from special trips, which must be supervised by a teacher or coach (Board Rule 2257), the driver is the responsible authority on the school bus.

In an effort to clarify the driver's authority, the Los Angeles Board of Education has created several rules which define a standard of conduct for students on buses and explain the driver's disciplinary powers. Board Rule 2256 states that pupils riding school buses shall observe the following rules: (a) remain seated, (b) refrain from loud conversation or boisterous conduct, (c) keep all parts of the body inside the bus, (d) eat no food on the bus, and (e) wear no athletic shoes equipped with cleats or spikes. Board Rule 2258 declares that a bus driver may deny transportation to pupils for not more than three days for continued disorderly conduct or persistent refusal to submit to authority as provided in California Administrative Code, Title 5, Section 14263. Students may be disciplined for misbehavior on buses when such misbehavior consists of continued refusal to comply with rules set forth in Board Rule 2256, any action endangering the safety of other bus pupils, refusal to comply with the authority of the bus driver, persistent minor offenses which distract the driver's attention from driving, or any offense which seriously disturbs the driver's discipline (Board Rule 2259).

Bomb Threats

Expression of specific administrative policies with regard to bomb threats is found in Administrative Regulation 2354-9 and Office of Administrative Services Bulletin Number 18. The bulletin directs that in each case action be taken in the sequence listed and that each step and decision be documented and kept on file. Other than to call administrators' attention to the major categories identified (I. The Threat; II. Administrative Actions and Decisions; III. The Search; IV. Evacuation; V. Disposition of the Suspicious Object or Bomb; VI. Report of Bomb Threat) and suggest at least an annual rereading, this segment is designed to acquaint principals with the substance of some of the statutes having an immediate bearing on the subject.

a. Health and Safety Code Section 12000 defines "explosives" as a substance or combination of substances the primary purpose of which is relatively instantaneous release of gas and heat.

b. Health and Safety Code Section 12082 makes unlawful the sale, gift, or delivery of explosives to persons under 18 years.

c. Labor Code Section 2651 makes unlawful home manufacture of explosives, fireworks, and articles of like character.

d. Penal Code Section 12301(a)(2) identifies a "destructive device" as including any bomb, grenade, explosive missile, or similar device therefor.

e. Penal Code Section 148.1(a) indicates that one who falsely reports that a bomb or other explosive has been placed or secreted in any public or private place is guilty of a crime.

f. Penal Code Section 148.1(b) makes it a crime to maliciously and falsely inform another that a bomb has been placed or secreted in any public or private place.

g. Penal Code Section 452(a) states that possession of an explosive substance or device with intent to willfully use it to set fire to or burn a school (Penal Code Section 448a) is a crime.

h. Penal Code Section 452(b) makes it a felony to possess, manufacture, or dispose of (i.e., give away, loan, sell, or transfer) a fire bomb.

i. Labor Code Section 3367 extends workmen's compensation benefits to one who at the request of a fire or law enforcement officer of a public entity voluntarily renders technical assistance to prevent a fire, explosion or other hazardous occurrence.

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COLLATERAL INFORMATION

Deposition Instructions

The purpose of these instructions is to inform you what a deposition is, why it is being taken, how it will be taken, and pitfalls to be avoided during its taking.

What is a Deposition?
A deposition is your testimony under oath. You will be asked questions by the opposing attorney and in some cases by your attorneys and the questions and your answers thereto will be recorded by an official court reporter. There will be no judge present and in all likelihood the deposition will be taken in one of the attorneys' offices.

There is little difference between testimony at a deposition and testimony in the courtroom, except there is no judge presiding and ruling over the matters as they arise. The judge may do so later.

The Purposes of a Deposition
The opposing side is taking your deposition for three reasons. The first reason is that they want to find out what facts you have in your actual knowledge and possession regarding the issues in the law suit. In other words, they are interested in what your story is now and what it is going to be at the trial.

Secondly, they want to pin you down to a specific story so that you will have to tell the same story at the trial and they will know in advance what your story is going to be.

And, thirdly, they hope to catch you in a lie because if they were to catch you in a lie they can show at the trial that you are not a truthful person and therefore your testimony should not be believed on any of the points, particularly the crucial ones.

These are very legitimate purposes and the opposing side has every right to take your deposition for these purposes and in this fashion. Correspondingly, you have the same right to take the deposition of the opposing litigant.

Duties and Rights of Pupils

Duties

1. Pursue required course of study (California Education Code 10609), be diligent in study (California Administrative Code, Title 5, 300).

2. Conform to regulations of school (California Education Code 10609; California Administrative Code, Title 5, 300).

3. Obey promptly all directions of his teacher and others in authority (California Education Code 10609; California Administrative Code, Title 5, 300).

4. Observe good order and propriety of deportment (California Administrative Code, Title 5, 300).

5. Be respectful to teachers and others in authority (California Administrative Code, Title 5, 300).

6. Attend school punctually and regularly (California Administrative Code, Title 5, 300).

7. Be kind and courteous to schoolmates (California Administrative Code, Title 5, 300).

8. Refrain entirely from use of profane and vulgar language (California Education Code 10602; California Administrative Code, Title 5, 300).

9. Refrain from immorality, gambling, profanity (California Administrative Code, Title 5, 301).

10. Refrain from use or possession of tobacco, intoxicating liquor, narcotics, or other hallucinogenic or dangerous drugs or substances (California Administrative Code, Title 5, 301; Student Rights and Responsibilities handbook, page 20).

11. Refrain from willful or negligent conduct likely to result in injury to other pupils or school employees or in damage to school property (California Education Code 10602, 10606; California Administrative Code, Title 5, 301).

12. Give proper attention to personal cleanliness and neatness of dress (California Administrative Code, Title 5, 302).

13. Remain at school until the regular hour for closing except

when excused or in case of emergency (California Administrative Code, Title 5, 303).

14. Leave the schoolroom at recess (California Administrative Code, Title 5, 304).

15. Provide satisfactory explanation of absence from parent or guardian (California Administrative Code, Title 5, 306).

16. Remain at school and participate in approved activities until departure of District vehicle providing transportation (California Administrative Code, Title 5, 307).

17. Take as much of State physical performance test as one's condition will permit (California Administrative Code, Title 5, 1041).

18. Take State achievement test for basic skills and scholastic aptitude designated for grade 6 or 12 (California Administrative Code, Title 5, 1021).

19. Take reading test adopted by State Board of Education for designated grade (California Administrative Code, Title 5, 1051).

20. Express opinions and demonstrate support for causes at times and places not disruptive of school program nor which interfere with rights of other students (Student Rights and Responsibilities handbook, page 3).

21. Exercise self-discipline in classroom and on campus so rights of all are respected (Student Rights and Responsibilities handbook, page 5).

22. Do not circulate materials which clearly create a danger of disruption of orderly operation of school or the commission of an unlawful act (Student Rights and Responsibilities handbook, page 6).

23. Student campus forum may not discuss topics which subject an individual or group to shame or degradation (Student Rights and Responsbilities handbook, page 8).

24. Students must cooperate with peace officers in the lawful performance of their duties (Student Rights and Responsibilities handbook, page 13).

25. Student who initiates a petition is responsible for its reasonableness and its accuracy (Student Rights and Responsibilities handbook, page 15).

26. Show neither disrespect nor interfere with rights of others during Pledge of Allegiance (Student Rights and Responsibilities handbook, page 16).

27. Respect person and property of other persons (Student Rights and Responsibilities handbook, page 17).

28. Exercise care in protection of possessions; avoid tempting others to remove or damage them (Student Rights and Responsibilities handbook, page 17).

Rights

1. Shall not be required to perform work or services detrimental to health (California Administrative Code, Title 5, 351).
2. Shall not be required to remain in room during intermission at noon or during any recess (California Administrative Code, Title 5, 352).
3. Shall not be detained in school for disciplinary or other reasons for more than one hour after close of maximum school day (California Administrative Code, Title 5, 353).
4. Cumulative record shall not be withheld from requesting district because of charges or fees owed by pupil or pupil's parent (California Administrative Code, Title 5, 438).
5. May be member of school safety patrol if at least 11 years old and in 5th grade or higher (California Administrative Code, Title 5, 571).
6. Should have opportunity to inquire, to question, to exchange ideas (Student Rights and Responsibilities handbook, page 3).
7. Representatives of school-sponsored groups have right to communicate to student body by whatever means have been approved by administrator (Student Rights and Responsibilities handbook, page 4).
8. Student has right to be heard before final judgment by administrator when school regulation has been violated (Student Rights and Responsibilities handbook, page 5).
9. If suspension, transfer to another school, or expulsion is proposed, student and parents have rights of notification and consultation (Student Rights and Responsibilities handbook, page 5).
10. A forum, open to whole student body, may be conducted on campus (Student Rights and Responsibilities handbook, page 8).

11. Off-campus publications may be distributed in accordance with time, place, and manner guidelines (Administrative Guide 1274; Student Rights and Responsibilities handbook, page 11).

12. Receive fair treatment from peace officers requested to come on campus; be granted all procedural safeguards prescribed by law (Student Rights and Responsibilities handbook, page 13).

13. Petition student government on any matter within its scope; circulate petitions which relate to matters of general or public interest or to school activities (California Education Code 10611, Administrative Guide 1274).

14. Refrain from Pledge of Allegiance on religious or conscientious grounds (Student Rights and Responsibilities handbook, page 16).

15. Right to privacy of person and possessions on campus may be diminished only when health, safety and general welfare of other students are endangered (Student Rights and Responsibilities handbook, page 17).

16. Right to privacy and confidentiality of student's records is protected by legal provisions which prohibit release of information to other than legally authorized persons (Student Rights and Responsibilities hand book, page 18).

Expulsion for Conduct Off School Premises

California Attorney General Opinion No. 66-23, July 12, 1966
The Honorable Keith C. Sorenson, District Attorney of San Mateo County, has requested an opinion on the following question:

May the Governing Board of a School District legally expel pupils for conduct away from the school premises, outside of school hours and not involving a school activity or attendance?

The conclusion is:

A student may be suspended or expelled for behavior inimical to the welfare of the other students or behavior which adversely affects school discipline, whether such behavior occurs on or off the school grounds. In addition, a student may be excluded for an indefinite period if the school district governing board determines that he suffers from "filthy or vicious habits" or that he has a mental disability which is such as to cause his attendance to be inimical to the welfare of other pupils. Such determinations are primarily a question of fact to be determined by the appropriate governing bodies.

Analysis
The circumstances giving rise to the question involve a number of high school boys who participated in improper sexual activities with a twelve-year-old girl over a period of several months. The activities did not occur on the school grounds or during school hours. The nature and extent of the activities have become common knowledge among other students at the high school attended by the boys. Parents of other children have expressed concern that some of the participants, because of the nature of this activity and their "contemptuous" and unremorseful attitude, may jeopardize school discipline and prove a bad example to other students.

Various sections of the Education Code[1] specifically set forth grounds upon which pupils may be excluded, suspended or expelled from school. The authority granted to the governing board by these provisions must be exercised with great care because as stated in 39 Ops. Cal. Atty. Gen. 149, 150:

> "Education Code section 12101 requires full time attendance in public schools for all children between the ages of 8 and 16 not otherwise exempted by law. Education

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[1] All section references are to the Education Code unless otherwise designated.

> Code section 12154 exempts from this requirement children who are being instructed in a private full time day school.
>
> "Not only does society have a right to require full time attendance of the child in a public school or a private school but these provisions have been interpreted as granting to the qualified child the correlative right to attend full time school (see Const. Art. IX, sec. 6; *Roman Catholic Welfare Corp*. v. *Piedmont*, 45 Cal.2d 325; *Piper* v. *Big Pine School District*, 193 Cal. 664; *Ward* v. *Flood*, 48 Cal. 36)."

Sections 10552 and 10553, relating to exclusion of pupils, are contained in article 2 of chapter 1, division 9, part 2 of the Education Code. The expulsion or suspension of pupils is governed by article 3 of chapter 1, division 9, part 2 of the Education Code commencing with section 10601. Section 10552 provides for *exclusion* from public schools of students with "filthy or vicious habits or children suffering from contagious or infectious diseases." See also section 11902. Section 10553 authorizes *exclusion* of any child whose "physical or mental disability is such as to cause his attendance to be inimical to the welfare of other pupils." Exclusion of pupils under the foregoing provisions is authorized not as punishment but to provide school authorities a means to protect other pupils. It clearly need not be related to a school activity or school attendance. On the other hand, expulsion or suspension is primarily to discipline a pupil for his misconduct.

Section 10602 as amended by Stats. 1965, chapter 1279 reads as follows:

> "Continued willful disobedience, *habitual profanity or vulgarity*, open and persistent defiance of the authority of the *school personnel, or assault or battery upon a student, upon school premises or while under the authority of school personnel, or continued abuse of school personnel, assault or battery upon school personnel, or any threat of force or violence directed toward school personnel, at any time or place* shall constitute good cause for suspension or expulsion from school; *however, no pupil shall be suspended or expelled unless the conduct for which he is to be disciplined is related to school activity or school attendance*. Smoking or having tobacco on school premises constitutes a good cause for the suspension or expulsion of a pupil except when permitted as provided in this section. The governing board of any school district maintaining a junior college may adopt rules and regulations permitting the smoking and possession of tobacco on the campus of a junior college by pupils of the junior college 18 years of age and over

> and enrolled in grades above the 12th, if the campus is not shared with a high school." (Underlining indicates changes or additions by amendment.)

The new language in section 10602 states that the conduct for which pupils may be disciplined must be "related to school activity or school attendance." It has been suggested that because of this phrase, the governing board of a school district may not legally expel pupils from school for conduct away from the school premises and outside of school hours. This is too narrow a construction.

Both the Legislature and the courts have indicated that conduct occurring off the school premises may constitute grounds for discipline by school authorities. For example, certain conduct specified in section 10602 occurring "at any time or place" subjects a pupil to discipline. This language was also added to the section in 1965. Thus it appears that the Legislature intended that certain acts may constitute conduct related to school activity or school attendance regardless of the place of their occurrence. The section does not state that that proscribed conduct must necessarily occur on school premises or during school hours. Section 10604 prohibits membership in secret clubs, fraternities and sororities and provides for suspension or expulsion for pupils who join such a society. Thus a right is given to discipline pupils for membership in secret clubs which usually meet outside of school hours and away from the school grounds. In Bradford v. Board of Education, 18 Cal. App. 19, 27 (1912), the court concluded in sustaining the validity of similar legislation that in the opinion of the Legislature, membership in secret societies "were calculated to diminish the efficiency of the school system of the State and exert a harmful influence upon the younger pupils of its schools.

Misconduct on the way to and from school subjects pupils to suspension or expulsion. See section 13557, Kerwin v. County of San Mateo, 176 Cal. App. 2d 304, 309 (1959).

Section 24 of Title 5, California Administrative Code provides in part:

> "Principals and teachers shall exercise careful supervision over the moral conditions in their respective schools . . ."

These references clearly show that the grounds for discipline listed in section 10602 are not exclusive.

Historically the governing board of a school district has had the power to discipline a pupil for conduct "which has a direct and immediate tendency to influence the conduct of other pupils while in the schoolroom, to set at naught the proper discipline of the school, to impair the authority of the teachers, and to bring them into ridicule and contempt. Such power [to discipline for conduct occurring outside of school] is essential to the preservation of order, decency, decorum, and good government in the public schools." *State ex rel. Dresser* v. *District Board* (Wis.), 116 N.W. 232, 235 (1908).

In *Nutt* v. *Board of Education* (Kan.), 278 P. 1065, 1066 (1929) the court held that having a child conceived out of wedlock was insufficient reason for preventing a girl from attending school. The court recognized, however, that the school authorities could refuse admission to a child who is of a licentious or immoral character although holding in effect that a single act of immorality was insufficient. Similarly, in California only a child with vicious or filthy *habits* may be excluded. (section 10552)

This general rule, that pupils may be disciplined for conduct away from school where the conduct directly affects the good order and welfare of the school has not been affected by the 1965 amendments. It should be noted, however, that under section 10605 the exercise of the power of expulsion or suspension is expressly limited to cases where other means to correct misconduct have failed. *Wooster* v. *Sunderland*, 27 Cal. App. 51, 56 (1915).

The fact that punishable offenses within the jurisdiction of other authorities such as the Juvenile Court are involved does not have any effect upon the question of whether the governing board has authority to discipline students. An occurrence resulting in proceedings before the Juvenile Court may occur on school property during school hours in which case the board's authority to act under sections 10602 and 10605 cannot be questioned.

In the case presented a question of fact exists as to whether the conduct in question is sufficiently "related to school activity or school attendance" to justify expulsion or suspension or whether the conduct at issue is evidence of a "vicious or filthy habit" justifying exclusion.

Unquestionably the pupil's attitude at school regarding his misconduct may be considered in determining whether discipline or exclusion is warranted. A course of conduct indicating lack of contrition for the acts committed, recitation in detail of the past misdeeds, and efforts to inspire similar conduct in fellow students could well lead to the conclusion that the conduct at issue is inimical to the welfare of the other pupils. Such recitations might also be deemed habitual vulgarity under section 10602.

The statutes involved clearly provide that a student can be expelled only on order of the governing board. See also section 967; *cf. Elder* v. *Anderson*, 205 Cal. App. 2d 326, 336 (1962).

Since the decision of the local governing board to expel a pupil is subject to appeal to the County Board of Education (section 10608) it would appear that evidence must be presented to the governing board and a record made which, if reviewed by the county board will show the existence of facts justifying an expulsion.

Although the necessity for appropriate evidence and a record for review is not as apparent insofar as expulsion is concerned, under the circumstances the importance of factual determination and the consistent State policy favoring school attendance would indicate the advisability of a similar hearing, if requested, should exclusion under sections 10552-10553 be contemplated.

Note: The foregoing is the complete opinion found in 48 OPS Atty.Gen. 4-8.

The reader's attention is called to the fact that Education Code Section 10602 has been modified in part by the provisions of Section 10602.5, which were added by Chapter 65, 1975 Statutes, and effective January 1, 1976, and continue to make smoking on school premises a good cause for pupil suspension or expulsion except when the governing board adopts rules and regulations permitting the smoking and possession of tobacco on high school campuses. This new permissive statute states in pertinent part:

> "(a) Smoking or having tobacco on school premises, or while under the authority of school personnel, constitutes good cause for the suspension or expulsion of a pupil except as provided in this section.
>
> "(b) The governing board of any school district maintaining a . . . high school may adopt rules and regulations permitting the smoking and possession of tobacco on the campus of a . . . high school or while under the authority of school personnel by pupils of the . . . high school; provided that such rules and regulations shall not permit students to smoke in any classroom or other enclosed facility which any student is required to occupy or which is customarily occupied by nonsmoking students.
>
> "(c) The governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking."

Inspection of District Public Records

The California Public Records Act[1] (1968) "declares that access to information concerning conduct of the people's business is a fundamental and necessary right of every person in this state".

Anything prepared for a public agency in the conduct of official business is a public record.[2]

"Where there is no contrary statute or countervailing public policy, the right to inspect public records must be freely allowed." [3]

The District is empowered to "adopt regulations stating procedures to be followed when making its records available . . .".[4]

District records which are exempt from disclosure requirements[5] would include

(a) preliminary drafts, notes, or memoranda which are not retained by the District in the ordinary course of business,

(b) records pertaining to pending litigation to which the District is a party,

(c) personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy,

(d) records of complaints, investigations, intelligence information, or security procedures compiled for correctional law enforcement, or licensing purposes,

(e) data used to administer an examination for employment or academic examination; and

(f) other records the disclosure of which is exempted by statute.[6]

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[1] California Government Code, Section 6250-60
[2] Memo, Maharg to Board of Supervisors, November 15, 1968
[3] Craemer v. Superior Court (1968), 265 C.A.2d 216, 222
[4] California Government Code, Section 6253
[5] California Government Code, Section 6254
[6] footnote 4, pages 220-1, Craemer, supra; California Education Code, Sections 967, 10751, 10751.5, 13001.5, 13128, 13264, 13599.5, 13749, 13892

The justification for withholding a record from inspection is its exemption by the act or the fact that, in the public interest, nondisclosure clearly outweighs disclosure.[7]

"Public records" and "public writings" are used synonymously.[8]

Public records are subject to inspection and copying by members of the public only during school or administrative office business hours.[9]

An exact copy shall be provided unless impractical to do so. Computer data shall be provided in a form and at a cost determined by Management Information Division.

A reasonable fee shall be paid for a copy of an identifiable public record.[10] Pursuant to California Government Code Section 6257 charges to the public for copies of public records should be made as listed below:

For the first page or copy	$ .25
For the second and succeeding pages or additional copies of any page from the same public record	$ .10

This policy should be uniformly applied. It parallels the City of Los Angeles fee schedule. For assistance, please call the Office of Administrative Services. (See Office of Administrative Services Bulletin No. 4)

Charges made for copies requested must represent reasonable cost. This would include labor, material, and other pertinent charges as for equipment or overhead.

Factors justifying service charges are special searches greater than those the District is normally expected to provide, quantity or variety of information requested, or determination that information requested might be secured by inquirer's own effort and without District assistance.

Money collected as fees, deposits and charges is subject to accounting procedures and controls prescribed by the Controller.

Copies of a public record need not be provided *on demand* for a member of the public, but within a *reasonable* time. Regular ongoing operations supersede the immediate provision of a requested copy.

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[7] California Government Code, Section 6255
[8] *Craemer*, *supra*, page 220
[9] California Government Code, Section 6253
[10] California Government Code, Section 6257

Schools and offices are not obligated to compile or procure a record or information which is not physically in being or in their possession. If the location of a requested record is known, the inquirer should be referred to the appropriate location.

A document cannot secure exemption status by arbitrarily being labeled "draft" or "confidential" or "for committee use only" or some similar designation when such label is unessential, improper, inappropriate, superfluous, or irrelevant.

Failure or inability of a member of the public to provide a reasonably specific description of a requested record should not be so construed that it becomes a means of withholding a record or information from such member of the public. An unlimited records reference service is not obligatory in the absence of proper information or record identification.

The right to inspect or acquire a copy of a public record is enforceable in a court of competent jurisdiction.[11]

Each school and office should determine which, if any, of its records are exempt by law from public inspection and copying. All remaining records are to be open to inspection and copying.

Set aside suitable space, if available, for reading or copying of records. Provide safeguards to protect records from mishandling, theft, loss, defacement, mutilation, or other damage.

Existing copiers available should be utilized to meet copying requirements as determined by volume and practicality.

Mail and telephone requests should be discouraged. However, mail requests otherwise qualifying, including appropriate postage, should be respected.

Legal questions concerning public inspection of District records should be referred to the Legal Adviser.

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[11] California Government Code, Section 6258

Preparation of the Witness

The below numbered thoughts are set out to help a witness testify convincingly.

1. Practice extreme candor.
2. Be yourself, be natural, as relaxed as possible, and follow closely the questions asked of you by both counsel.
3. Answer each question to the best of your ability completely but do not offer more than is asked.
4. Pause briefly before answering each question. Do not pause noticeably. Gather your thoughts carefully before answering and do not permit yourself to be hurried.
5. If the atmosphere becomes so emotionally charged that you feel you must delay your answer momentarily, do so.
6. Do not be afraid of counsel. Do not permit counsel to bully you, i.e., counsel says, "Answer Yes or No," and you cannot in good conscience answer Yes or No -- advise counsel that you are unable to answer Yes or No and point out that if you will be permitted to explain and properly answer you will cogently and succinctly do so.
7. If your composure has been shaken or you are angry or you are otherwise the victim of legal harassment, then pause, take stock of your position and then proceed.
8. A witness should avoid testifying as to conclusions, utilizing pronouns which confuse identity, using educational jargon (ADA, Master Program Card, Curriculum Cards, etc.), and cluttering testimony with irrelevant and immaterial information.
9. Do not memorize your testimony, instead tell the facts as you know them and in a manner intelligible to those who have no knowledge whatsoever of the case.
10. Avoid demonstrations of anger, belligerency, sarcasm or discourtesy.
11. Do not answer any question unless you thoroughly understand it.
12. After counsel has completed his/her direct examination, opposing counsel will be permitted to cross-examine as to all matters

brought out in direct examination.

13. After opposing counsel has completed his/her cross-examination, your counsel may again redirect questions to clarify positions that may have been confused by the cross-examination. Opposing counsel will have the opportunity to again cross-examine.

Pitfalls To Avoid As A Witness When Testifying At A Trial (Or At A Deposition)

1. Always remember that either as a litigant or a witness you have no purpose to serve other than to give the facts as you know them. You must give the facts if you have them. You do not, however, have to give opinions and therefore you should not give opinions. Generally speaking, if you are asked a question which calls for an opinion your attorney will object to the question. (However, after his/her objection, if he/she advises you to go ahead and answer and you do have an opinion on the subject, then you may give it at a deposition.)

2. Never state facts that you don't know. Quite frequently you will be asked a question by an attorney and in spite of the fact that you feel that you should know the answer, you do not, and therefore, you will be tempted to guess or estimate what the answer should be. This is a mistake. If you do not know an answer to a question, even though you would appear ignorant or evasive by stating that you don't know, you should nevertheless state that you do not know because a guess or an estimate for an answer is almost always the wrong answer and one from which the opponent can show that you either don't know what you are talking about or imply that you are deliberately mistating the truth.

   Generally speaking, the attorney is in a position to know what the answer should have been and it may very well be that the reason he/she asked the question was because the attorney knew you wouldn't know the answer but felt that you would be compelled to guess.

3. You are only to give the information which you have readily in mind. If you do not know certain information, do not give it. Do not turn to your counsel and ask him/her for the information or do not turn to another witness, if one should be present, and ask him/her for the information. Do not promise to get information that you don't have readily in mind unless your attorney advises it. If you know an answer to a question at the time that it is being asked, then you should answer it. Do not agree to look up anything in the future and then supplement the answer you are then giving unless your counsel advises you to.

4. Do not, without your counsel's request, reach in your pocket for a Social Security Card, or other documents. A discovery deposition is to elicit facts which you know and have in your mind and not for the production of documents. If the opposing side is interested in obtaining documents from you, there are other legal procedures by which to obtain them. Do not ask your counsel to produce anything which is in his/her file at the time because generally the same rule applies for obtaining these as applies to things which may be in your pocket.

5. Never attempt to explain or justify your answer. You are there to give the facts as you know them. You are not supposed to apologize or attempt to justify those facts. Any attempt as such would make it appear as if you doubt the accurateness or authenticity of your own testimony.

6. Do not let the opposing attorney get you angry or excited. This destroys the effectiveness of your testimony and you say things which may be used to your disadvantage later. It is sometimes the intent of attorneys to get a witness (deponent) excited during his/her testimony, hoping that the witness will say things which may be used against him/her.

   Under no circumstances should you argue with the opposing attorney. Give him/her only the information which you have. That is all he/she is entitled to. Give opposing counsel the information in the same tone of voice and manner that you do in answer to your own attorney's questions. The mere fact that you get emotional about a certain point could be to your opponent's advantage in a lawsuit.

   Do not be afraid of counsel. Counsel is not permitted to bully you, i.e., counsel says, "Answer Yes or No," and you cannot in good conscience answer yes or no -- advise counsel that you are unable to answer yes or no and point out that if you will be permitted to explain and properly answer, you will cogently and succinctly do so.

   If the atmosphere becomes so emotionally charged that you feel you must delay your answer momentarily, do so.

   If your composure has been shaken or you are angry or you are otherwise the victim of legal harassment, then pause, take stock of your position and then proceed.

7. If your attorney begins to speak, stop whatever answer you may be giving and allow counsel to make his/her statement. If he/she is making an objection to the question that is being asked of you, do not answer the question until your attorney, after he/she has made an objection, advises you to go ahead and complete your answer. If your attorney tells you not to answer a question, then you should not answer the question.

8. Take your time in answering a question. If you don't know an answer to a question, the most important thing is to say so. It is advisable to answer all questions in a direct and straightforward manner. (Remember, the deposition does not show the length of time which you used in considering your answer.)

9. Tell the truth. The truth on the witness stand (or in the deposition) will never really hurt a litigant. A lawyer may explain away the truth, but there is no explaining why a client lied or concealed the truth. The mere fact that you may have had an accident before of almost an identical nature or with similar injuries, or that you may have sued or been sued by other people at other times for similar claims, or even that you have a criminal record, does not destroy the validity of your claim or defense. However, the deliberate concealing of such an action would be devastating to your veracity at the trial and would hurt your case immeasurably and would also make you subject to future perjury proceedings.

10. Never joke on the witness stand (or in a deposition). The humor may not be apparent (especially on the cold transcript) and may make you look crude or cavalier about the truth.

11. Do not volunteer any facts not requested by a question. Such information cannot help your case and may hinder it.

12. After the deposition is over, do not chat with the opponents or their attorneys about the case or anything remotely connected with it. Remember, the other attorney represents interests adverse to your own. Do not let his/her friendly manner cause you to drop your guard and become chatty.

13. Do not try to figure out before you answer whether a truthful answer will help or hinder your case. Answer truthfully. Your lawyer can deal with the truth effectively. He/she is handicapped when you answer any other way.

14. A witness should avoid testifying with pronouns which confuse identity, using educational jargon (ADA, Master Program Card, Curriculum Cards, etc.) which, if not explained, will have little meaning to the court (Judge), and will clutter testimony.

15. Your initial testimony will be similar to what follows:

    a. You will be called by name and should come forward;

    b. You will swear to give honest answers;

    c. The attorney who has summoned you will ask:

        (1) your name;

(2) your occupation;

(3) your place of work;

(4) how long you have been at your place of current employment;

(5) the title of your job;

(6) the qualifications for the job you perform;

(7) the type of work you perform.

After you have read all of these suggestions, please write down any questions which you may have and ask them of your counsel prior to the trial (deposition).

Search of Student Lockers

Background Authority

1. "The public interest demands that all dangerous conditions be prevented or abated" (Camara v. Municipal Court, 387 U.S. 523 at page 537).

2. "The school stands in loco parentis and shares, in matters of school discipline, the parent's right to use moderate force to obtain obedience . . . and that right extends to the search of appellant's (i.e. the student's locker . . .") (In re Donaldson, 269 Cal.App.2d 509 at page 513).

3. Principals, teachers and other certificated employees of a school district have the right to exercise such physical control over their students as is necessary to "maintain order, protect property, or protect the health and safety of pupils" (California Education Code, Section 13557).

4. Schools are not independent enclaves where state penal laws do not apply. "Every person is liable to punishment by the laws of this state, for a public offense committed by him therein" (California Penal Code, Section 777).

5. Matters of school discipline, within the scope of the duties of school officials, control of which may justify a warrantless search of student lockers located on school premises, include:

   (a) a student's possession upon school grounds of "narcotics or other hallucinogenic drugs or substances" (California Education Code 10603; See also, In re Donaldson, 269 Cal.App.2d 509, 75 Cal. Rptr. 220);

   (b) any person's possession upon school grounds of any dirk, dagger, knife having a blade longer than 3-1/2 inches; folding knife with locking blade, or exposed blade razor (California Penal Code, Section 626.10, subd. (a); 1974 Stats., Ch. 103);

   (c) Any minor's possession upon school grounds of a concealable firearm when the minor has neither written permission from a parent nor is he/she accompanied by a parent (California Penal Code, Section 12021.5);

(d) any person's possession upon school grounds of a blackjack, slungshot, billy, sandclub, sandbag, set of metal knuckles, sawed-off shotgun, or nanchaku (California Penal Code, Section 12029);

(e) any person's possession upon school grounds of a firearm, unless it is with the permission of the school authorities or unless allowable due to the person's status as a peace officer, member of the military, designated agent of a peace officer, or unless the person is licensed to carry a concealed weapon (California Penal Code, Section 626.9).

6. The school stands in loco parentis over students. A school administrator is not a government official within the Fourth and Fourteenth Amendment prohibition against unreasonable searches and seizures where the primary purpose of the school administrator's search of a student locker was not to obtain convictions, but to secure evidence of student misconduct. (In re Donaldson, 269 Cal.App.2d 509 [School principal searched locker of student from whom a student informer had purchased drugs; search uncovered marijuana.])

7. "We believe that the appropriate test for searches by . . . school officials is two-pronged. The first requirement is that the search be within the scope of the school's duties. The second requirement is that the action taken, the search, be reasonable under the facts and circumstances of the case." (In re Christopher W., 29 Cal.App.3d 777 [Following up tips from four students, school administrator searched Christopher's student locker and found marijuana])

8. "The controlling standard of reasonableness . . . [does not] foreclose prompt inspections, even without a warrant, that the law has traditionally upheld in emergency situations" (Camara, supra, at page 539; People v. Lanthier, 5 C.3d 751 at pages 755, 756).

9. "It was reasonable for the school authorities to obtain the services of a police officer to effect the search they were authorized to make. The search was the sole product of the initiating action taken by the school authorities; was executed in their presence . . . [¶] We conclude the constitutional guarantee against unreasonable searches does not proscribe solicitation and use of professional assistance by school authorities in conducting an authorized search of a student for good cause" (In re Fred C., 26 Cal.App.3d 320, at page 325 [School administrators, informed by third party that a student was selling drugs, called police to search student after the latter refused to let them search his/her bulging pockets.]).

Recommendations

1. Conduct each semester a pupil orientation re locker purposes, uses and privileges.*
2. Make pupils aware of need for both regular and emergency locker inspections and/or searches.
3. Advise students that rights of privacy are not invaded when the health, safety, or general welfare of others are endangered.
4. Explain meaning of "in loco parentis".
5. Whenever possible, have the student present if his/her locker is being searched.
6. Whenever possible, have another adult witness present when there is reason to believe that a locker search is necessary.
7. If there is doubt as to the nature of the contents found in a locker, professional assistance may be enlisted for identification purposes.
8. Keep in mind the fact that complete license is not granted to school authorities to conduct searches under any and all circumstances (i.e. reasonable cause to believe that contraband is present -- "probable cause" is not required).

NOTE: Refer to page 4, Drug Abuse Control, (1973 edition published by Office of the Superintendent, Los Angeles City Schools) for drug and narcotics search related to pupil possession or involvement.

Conclusion

An administrator may upon the reasonable belief that contraband material is in a student's locker search that locker. The administrator's reasonable belief may result either from the administrator's firsthand knowledge or from information conveyed to him/her by others who are considered reliable.

Youngsters may be serached when an administrator is of the reasonable belief that the youngster is concealing contraband. Any search should preferably occur in the presence of at least one other administrator; and in those instances in which the youngster physically refuses to be searched, public authorities should be called.

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*Division of Educational Support Services Bulletin No. 11 states that at the time a locker is assigned to a student, he/she should be instructed to read and sign the student locker assignment card. This card outlines the terms and conditions for the use of a locker by a student.

Search of Student's Home

The County Counsel is of the opinion that Los Angeles Unified School District security officers should "abstain from any search of a juvenile's [parents'] home unless either a search warrant or parental consent is obtained."[1]

In situations in which a district security agent accompanies a juvenile to his/her home for the purpose of recovering stolen district property and a consenting parent is not present, the County Counsel recommends[2] that this procedure be followed:

1. If the juvenile has confessed to the wrongful possession of district property, no search would seem to be necessary, and it would thus suffice for our agents to wait outside the house for the juvenile to bring the property out.

2. When the juvenile does not admit the wrongful taking or possession of district property, or will not voluntarily bring the property in question out of his/her parent's house, district agents should not rely upon the juvenile's consent to search the home, but rather should obtain parental consent or a search warrant.

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[1] Memorandum, Deputy County Counsel Mason to Reslock, February 5, 197

[2] Ibid., at page 4

Subpoena of Person or Records in Civil Actions

Background

An attorney, acting as an officer of the Court, may call an individual to testify and/or bring specific records to Court which have a bearing on the particular matter being litigated. Service of a subpoena helps to assure the presence of such individual or records at a precise time and place.

The subpoena is a writ (i.e., an order or precept) which is issued in the name of the Court shown thereon and which commands the person designated in it to personally attend court to testify as a witness at the time and place indicated or be penalized for failure to appear through contempt. A subpoena duces tecum is an order of the court which requires the person named therein to produce in court certain designated documents.

Service

Proper service of a subpoena requires that the writ be handed by the process server to the person for whom intended or, if acceptance is refused, placed as close to the individual as possible with an accompanying statement to the effect that the document is a subpoena. (Code of Civil Procedure Section 1987[a])

A process server who intends to serve an employee individually should be directed to the school principal or office administrator to whom the individual reports. The administrator will notify the employee and arrange for service in a private office. In no event is a process server authorized to go directly to a classroom. An employee may refuse to accept the subpoena and such failure to report to be served shall not be regarded as insubordination or improper conduct. In any event, there should be no interference with the school routine.

Fees

Fees must be demanded immediately upon service or they will not be paid. Section 68097 of the Government Code provides that "Witnesses in civil cases may demand the payment of their mileage (20¢ per mile, one way only) and fees ($12 per day) for one day, in advance, and when so demanded shall not be compelled to attend until the allowances are paid". Witness fees and mileage rates are set forth in Government Code Sections 68093, 68095, and 68096. Failure to demand the witness fee or mileage upon receipt of the subpoena constitutes a waiver of these allowable payments. Employees in paid status are required to forward to the Controlling Division any witness fees received for response to subpoena. Mileage may not be demanded for mailing, in lieu of personal appearance, of certified copies of subpoenaed pupil records in accordance with the provisions of Education Code Section 10754.

Service of a subpoena is frequently a last minute act and often leaves the recipient with very little time to make convenient personal arrangements or to locate records which are demanded in the subpoena duces tecum. With regard to the production of records, the individual need do only the best that he/she can under the circumstances. If the time allowed is insufficient to find the specified records, the individual served with the subpoena duces tecum may explain to the Court the reason for his/her inability to produce the ordered documents on the date indicated. It is recommended that when adequate time has not been allowed, the person subpoenaed should call the attorney having the subpoena served and so advise him/her.

Role Of Pupil Services And Attendance Branch

Service of a subpoena duces tecum requesting the records of pupils should be directed to the Pupil Services and Attendance office serving the school the child attends or attended. If this is not possible, such subpoena should be accepted only by a school administrator, who should immediately work out with Pupil Services and Attendance a mutually satisfactory plan for answering the subpoena. (See last sentence of section on Fees.)

Role of Insurance Section

In the event that an employee is served with a subpoena in connection with an employment-related accident or other matter that is covered by Los Angeles Unified School District's insurance, he/she should immediately notify Dr. Clifford H. Allen, Insurance Supervisor, Contractual Relations Branch, Room 215, Business Services Center, 1425 South San Pedro Street, Los Angeles 90015 (Telephone 625-5366).

Official Governmental Order

Payment of salary is provided for time necessarily spent in involuntary federal jury service or for any necessary absence of one day or less in response to an official order from another governmental jurisdiction (Board Rule 3602 i).

Questions relating to the captioned subject should be directed to County Counsel attorneys (625-6367) or the Legal Adviser (625-6606).

Assault or Battery Determination

Board Rule 3609 which is applicable only to employees in regular, substitute, or temporary status, provides in relevant part:

> ". . . leave may be granted to an employee . . . for absence because of an injury resulting from an assault or battery directly related to the performance of duties but considered to be above and beyond the normal risks experienced by an employee. Determination that the injury was the result of an assault or battery shall be made by the immediate administrator."

This rule is applicable only to employees in regular, substitute, or temporary status (Board Rule 3609, subd. a).

It should be noted initially that there is a distinction between civil assault and/or battery and criminal assault and/or battery.

The former is a tort and any subsequent judicial action usually involves a suit for monetary damages by the injured party against the offender. The latter is a crime and is prosecuted (by the State) for an offense proscribed by the Penal Code.

A civil assault is an intentional tort in which the defendant creates an apprehension of a physical injury on the part of the plaintiff. Thus a civil assault is primarily a mental invasion of plaintiff's person, e.g., you see the fist coming--you have been assaulted.

A criminal assault need not create the mental foreboding on the part of the victim. To constitute criminal assault there must be present both an unlawful attempt and a present ability to commit a violent injury on the person of another (California Penal Code, Section 240). Thus the element of "apprehension" on the part of the injured need not be present to constitute a criminal assault.

A civil battery is an intentional tort wherein there is a deliberate and unpermitted contact with the plaintiff's person. One's person includes all those things which are in contact or connected with it. There must be absence of consent to the contact on the part of the plaintiff. A touching which unreasonably exceeds permitted contact constitutes a battery.

A criminal battery is an unlawful and willful use of force or violence upon the person of another. Here a deliberate physical invasion by the defendant must be shown.

In civil assault and/or battery, the fiction of "transferred intent" is applicable. Thus an intent on the part of "A" to assault or injure "B", which results in apprehension and/or injury to "C", provides "C" with a basis for civil (tort) action for damages against "A". Not every apprehension and touching or injury is remediable since one may act in self-defense and thus injure an innocent bystander.

In a criminal prosecution for assault and/or battery, the element of intent must be present. If an assault is charged, there need only be shown the unlawful attempt to injure plus the ability to cause the injury. If a battery is charged, there need only be shown the willful and unlawful use of force against another's person.

The basis for the District's assault and battery leave is the criminal act making an employee the victim.

When, from all the facts and circumstances, it is the principal's judgment that an employee has been intentionally

> Frightened, menaced, threatened, intimidated, or terrorized, so that the employee
>
> Felt an immediate physical threat, then
>
> The principal should report the incident as an assault, i.e., as a mental invasion of the employee's personal integrity.

When, from all the facts and circumstances, it is the principal's judgment that there has been

> A voluntary intent to cause an unpermitted contact with the employee, any part of his body, or anything attached to it; and
>
> Actual contact with the employee; and
>
> Absence of consent to the contact by the employee; then
>
> The principal should report the incident as a battery.

When, from all the facts and circumstances, it is the principal's judgment there has been an assault and battery, he/she should report the incident immediately as such.

Accidents, of course, do not by any test constitute either an assault or a battery.

Auxiliary Role of Public Information Unit

Under the authority provided by Education Code Section 1071(c) to governing boards to promote the advancement of education and the mandate to the Superintendent in Board Rule 1401 to "establish the procedures to be followed in the dissemination of information concerning activities in the schools," the Public Information Unit has been delegated the responsibility to "inform and make known to the citizens of the district, the educational programs and activities of the schools therein."

In discharging its responsibility to fully inform the citizens of the community, the Public Information Unit helps publicize the broad spectrum of school activitites, Board policy decisions and District events. The Unit supplies information to the media in times of crisis by virtue of its inclusion as an integral part of the District's emergency system. Close working relationships are maintained with the District's Security Section and local law enforcement agencies to facilitate the dissemination of this type of information.

When a school is involved in an emergency or crisis situation, staff of the Public Information Unit are ready and available to lend a hand to the administrator in charge. If a call comes to the school from the media requesting information, Public Information will assist in whatever way the administrator desires. Some means for providing assistance, in the form of questions and answers, follow:

When will the Public Information Unit assist a school administrator?

-- During sit-ins, student walk-outs, teacher strikes, disturbances caused by outsiders or accidents on the playground or at the school

-- During times of natural disasters such as fires or earthquakes as well as when schools have been vandalized or if there is an emergency closing for any reason

-- When incidents erupt involving students and/or former students in instances such as gang activities or shootings

-- When there is a rumor of an incident, the Unit will check it out whether the rumor originated at the school or was brought to the Unit's attention by the media.

- -- When serious incidents occur involving school personnel or students, either on or off campus

How can you get help?

- -- The principal or the designated representative should call the Unit (625-6166) and give all the information available to an information officer
- -- If it appears that the media will turn out in force, ask that an information officer be sent to the school immediately to assist you
- -- If it appears that the incident is less serious--you've only had one inquiry, call the Unit for advice on how to handle the media

What will an information officer do at the school during a crisis?

- -- Gather all pertinent information from the principal or the designated representative
- -- Set aside an empty classroom or a conference room where the media can await information and which can be used for "briefings" by the administrator
- -- Take calls from the media and make calls to the media as needed
- -- Serve as a spokesman for the administrator as needed

What should you tell the media?

- -- Tell them what you know, honestly and straightforwardly. It's bad policy to try to cover-up an unpleasant situation. Do not speculate about the facts.
- -- Give the media a perspective, if you can. Put the incident in perspective.

Corporal Punishment

One type of abuse which may be suffered by a pupil is excessive or unjustifiable corporal punishment. Although the nationwide trend is toward an abandonment of any form of corporal punishment, its exercise is still authorized by Education Code Section 10854 and subject to the limitations set forth in Board Rule 2268. Aspects of abuse related to this element of activity of which administrators should be aware include:

a. Certificated personnel may administer corporal punishment not prohibited by law only when milder measures have failed. [The problem for teachers, as well as administrators, has been to determine what corporal punishment is "not prohibited by law".]

b. Certificated employees of a school district are not subject to criminal penalties for the exercise of reasonable control over a pupil (Education Code Section 13557).

c. Inflicting "unjustifiable" physical pain or mental suffering upon a child or permitting either to be inflicted is a criminal offense (Penal Code Section 273a). "Unjustifiable" as used in Penal Code Section 273a means the infliction of physical pain or mental suffering which was not excusable nor properly authorizable under the circumstances (People v. Curtiss, 116 Cal.App.Supp. 771 at page 778).

d. Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony (Penal Code Section 273d).

NOTE: A teacher may be sued civilly for inflicting unjustifiable corporal punishment upon a child (Serres v. South Santa Anita School Board, 10 C.A.2d 152, 51 P.2d 893).

Disruptive Conduct v Freedom of Expression

First amendment rights of freedom of speech or expression, applied in light of the special characteristics of the school environment, are available to teachers and students, and neither students nor teachers shed such rights at the schoolhouse gate (Tinker v. Des Moines Community School District, 393 U.S.503; 89 S.Ct.733; 21 L.Ed.2d 731).

California Education Code Section 10611 states in part, "Students of the public schools have the right to exercise free expression including, but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, and the wearing of buttons, badges or other insignia . . .". However, the statute specifically excepts expression which is obscene, defamatory, or likely to incite students to commit unlawful or disruptive acts on school premises from the range of protected expression.

Board Rule 1276 and Administrative Regulation 1276-1 detail Los Angeles Unified School District policies and procedures regarding what forms of printed expression may be permitted or prohibited and to what extent the time, place, or manner of expression of outsiders, district employees, or students may be regulated. These Administrative Guide references, coupled with Board Rule 1274, represent the District's implementation of the mandate stated in California Education Code Section 10611, supra.

Public school students sometimes engage in symbolic acts such as wearing of armbands, berets, or buttons in order to publicize their opinions upon a given subject. The leading case regarding the extent to which school authorities may regulate such symbolic acts is Tinker v. Des Moines Community School District, supra, in which the U.S. Supreme Court held that a regulation issued by public school authorities prohibiting students from wearing black armbands during school hours violated the students' First Amendment right of freedom of expression where the students' purpose was to express their objections to the war in Vietnam and where there was no evidence that the prohibitory regulation was necessary to avoid material and substantial interference with school work or discipline. On the contrary, the action of the school authorities appeared to have been based upon an urgent wish to avoid the controversy which might result from the expression. The key to arriving at a workable rule of thumb in the handling of symbolic acts by students may well lie in the Tinker court's reasoning as expressed at 393 U.S. 503, 508 that the problem posed by the facts of the case did not relate to dress or hair style regulations nor to aggressive, disruptive action, nor group demonstrations, but related solely to a "silent, passive expression of opinion unaccompanied by any disorder or disturbance" which latter form of symbolic act expression "involves direct, primary First Amendment rights akin to 'free speech'." Disruptive conduct accompanying expression which is neither obscene, libelous nor likely to incite riot may be regulated to the extent reasonably necessary to maintain discipline in the operation of the school. However, such expression itself, no matter how disturbing its content, may not be prohibited nor regulated more than is absolutely necessary to maintain discipline in the operation of the school.

In California, a person who disrupts regularly scheduled classes or any other lawful form of school assembly may be subjected to penal sanctions pursuant to the following simple rules:

> A person who willfully uses conduct which disturbs or breaks up any lawful assembly or meeting other than those which are religious or political in nature is guilty of a misdemeanor (California Penal Code Section 403).
>
> When California Penal Code Section 403 is considered ". . . in light of the purposes of the provision and the competing First Amendment interests at stake, section 403 authorizes the imposition of criminal sanctions only when the defendant's activity itself--and not the content of the activity's expression--substantially impairs the effective conduct of a meeting" (emphasis in original) (In re Kay, 1 C.3d 930 at page 942; 83 Cal.Rptr. 686).

Notification to Parent Re One- or Two-Day Pupil Suspension

California Education Code § 10607.8 provides:

> "Whenever a pupil is suspended from school, the parent or guardian shall be notified of such action. Any notification to a pupil's parent or guardian concerning the suspension of the pupil shall be signed by the school principal or his designee."

Grounds for suspension of a pupil and District policies and procedures regarding pupil suspension are detailed in Division of Educational Support Services Bulletin Number 43. Such Bulletin Number 43, at page 4, provides in relevant part:

> "When a pupil is suspended from school for one (1) day, but not for more than two (2) consecutive days, the pupil's parent or guardian shall be notified as to the reason for the suspension, the school policy involved, and the duration. *If requested by the pupil's parent, or guardian, the meeting shall be held* promptly to discuss the suspension with school officials. (Education Code § 10607)" (Emphasis added.)

The California Court of Appeal has interpreted California Education Code § 10607 as meeting the due process requirement of the Fourteenth Amendment of the U.S. Constitution when the following procedures are followed by the school administrator:

> "(1) Notice by telephone, mail, or other appropriate method to the parents or guardian within a reasonable time *after* the suspension, advising of the fact of such suspension, its duration, and the reasons therefor, and further stating that, if desired, a prompt meeting or hearing will be held at which the suspension may be discussed with school officials.
>
> "(2) If requested, a meeting or hearing within a reasonable time at which the suspended student may also be present, where the student shall be afforded an opportunity to present informal proof of his side of the case."[1]

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[1] *Charles S.* v. *Board of Education*, 20 Cal.App.3d 83; 97 Cal.Rptr. 422

The form of the sample suspension letter set forth below eliminates the need for any administrative concern regarding whether the parent or the administrator should suggest a suspension meeting. The letter's form conveys administrative notification to the parent or guardian that a prompt meeting or hearing concerning the suspension will be held if the parent or guardian so desires.

SUSPENSION LETTER TO PARENT

(Date)

(Parent or Guardian)
Street Address
City, State, Zip Code

RE: (Pupil's Name)
Birth Date:
Grade:

Dear (Mr./Mrs. __________):

I regret to inform you that (pupil's name) is suspended from (name of school) for (give reason, i.e., assaulting school personnel; willful disobedience; sale of narcotics, etc.). This suspension is issued in compliance with the California Education Code, Section (use only section which applies, i.e., 10602, 10603, 10605, 10606), and Board of Education rules and regulations.

(Pupil's name) is suspended pending further investigation and recommendation concerning (his/her) case. During the period of suspension, a pupil may not participate in school-sponsored activities and is required to remain away from school at all times. Supervision of the pupil during the suspension period is the responsibility of a parent or of an adult designated by the parent.

A meeting at school has been scheduled on (day, date, time) for the purpose of discussing with you your (son's/daughter's) above violation(s) of school rules and any further disciplinary action that may be recommended. If the date and time of the meeting are not convenient for you, or if you do not wish to attend this meeting, please telephone me at (phone number) as soon as possible, so that we may discuss these matters or make other arrangements.

Sincerely,

(Principal)

copies: Area Superintendent
Area Administrative Coordinator
Coordinator, Juvenile Court Relations[2]

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[2] The form of the letter was derived from Division of Educational Support Services Bulletin Number 15.

Parent Responsibilities

The scope of this segment is limited to identifying those legal responsibilities which require the cooperative efforts of parents in helping the public schools accomplish their mission. Of specific concern is accountability for injury or damage caused by minor children[1] or parental conduct which contributes to the delinquency or truancy of a minor.

Only parental rights correlative to parental responsibilities within the scope of this article are recognized here.

Pertinent information is divided into two broad categories: responsibilities and rights. Other sanctions, not necessarily school related, are preceded by an asterisk.

Responsibilities[2]

A. Criminal Accountability

1. Education Code Sections 12101, 12454. Any parent, guardian, or other person having control or charge of any pupil who fails to comply with compulsory full-time attendance provisions is guilty of a misdemeanor.
2. Education Code Section 12756. Any parent, guardian, or other person having control or charge of any minor who fails to comply with required special continuation education class provisions is guilty of a misdemeanor.
3. Education Code Section 13558.5. Any parent or guardian of a pupil of the school who comes on to any school premises and there willfully interferes with the discipline, good order, lawful conduct, or administration of any class or activity of the school with intent to disrupt, obstruct, or inflict damage to property or bodily injury upon any person is guilty of a misdemeanor. A parent has recently been prosecuted and found guilty under this section. See Municipal Court Case No. 420857 (Aug. '74)
4. Education Code Section 13559. Every parent, guardian, or other person who upbraids, insults or abuses any teacher in the presence or hearing of a pupil is guilty of a misdemeanor. See also, Administrative Regulation 1208-5.
5. Education Code Section 13560. Any parent, guardian, or other person who insults or abuses any teacher in the presence of other school personnel or pupils on school premises, adjacent public walks, or other place where teacher's presence is required in connection with assigned school activities is guilty of a misdemeanor. See also, Administrative Regulation 1208-5

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[1] Memorandum, Apperson to Bardos, Nov. 14, 1973

[2] All references to codified laws are references to California Statutes (e.g., "Education Code" means "California Education Code")

6. Education Code Section 16701 (renumbered as 16675). Any person who willfully disturbs any public school or any public school meeting is guilty of a misdemeanor. (Held overbroad. Castro v. Sup. Ct., 9 C.A.3d 675)

7. *Penal Code Section 71. A person who causes a school officer or employee to do, or refrain from doing, any act in the performance of his duties by means of a threat to inflict injury upon the person or property of such school officer or employee is guilty of a public offense.

8. *Penal Code Section 272. Every person who commits any act or omits the performance of any duty which contributes to the delinquency of a minor is guilty of a misdemeanor.

9. *Penal Code Section 273a(1). Willful cruelty toward a child which might endanger his life, limb, or health may be, depending upon circumstances, either a misdemeanor or a felony.

10. *Penal Code Section 273a(2). Willful acts other than those which are likely to produce great bodily harm, death, or suffering are misdemeanors.

11. *Penal Code Section 273d. Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony.

12. *Penal Code Section 273f. Any parent who sends a child under 18 years of age to an immoral place is guilty of a misdemeanor.

13. Penal Code Section 471. A parent who alters a child's birth certificate to secure unlawful admission to kindergarten or first grade commits the crime of forgery. (In re Parker, 57 C.A.2d 388; People v. Weiskopf, 60 C.A.2d 214)

14. *Penal Code Section 626.8. A person who comes on school premises without lawful business and interferes with or disrupts peaceful conduct of activities thereon, and remains there after being asked to leave by the chief administrative official is guilty of a misdemeanor.

15. *Penal Code Section 626.9. Any person, other than a peace officer, member of the armed forces, or person assisting a peace officer who brings or possesses a firearm on public grounds without permission of school authorities is guilty of a public offense.

16. *Penal Code Section 626.10. Any person other than a peace officer, member of the armed forces or person assisting a peace officer who brings or possesses a dirk, dagger, knife having a blade longer than three and one-half inches, folding knife with locking blade or unguarded razor blade upon the grounds of a public school is guilty of a misdemeanor.

Rights

1. Education Code Sections 10607, 10607.8. The parent or guardian of a suspended pupil shall be given a written request to attend

a meeting with school officials on or before the third consecutive school day of the period of suspension. Causes, duration and other matters pertinent to the suspension shall be discussed at this meeting.

2. Education Code Section 10608. The parent or guardian of a pupil who has been expelled from school may appeal the suspension to the county board of education.

3. Education Code Section 10757. A parent or legal guardian shall be permitted to inspect the written records concerning his or her child or ward in any reasonable manner in consultation with a certificated employee of the district when the parent requests to do so during regular hours of the school day. If the child's parents or legal guardians are divorced or separated, only the parent, guardian, or other person having lawful custody of the child shall be permitted to inspect the written records of the child pursuant to this section. Division of Educational Support Services Bulletin No. 35 states, "The right to inspect the written records does not imply the right to copy the records or obtain a copy of the records."

   The prohibitions imposed by the last two sentences in the paragraph immediately preceding have been overruled by the Family Educational Rights and Privacy Act of 1974 and the 1974 revision of Education Code Section 10751. Either natural parent may now inspect and/or secure copies of the child's educational records. Also overruled by the same legislation are the limitations set forth in Education Code Section 10758 (below) and Bulletin No. 35 concerning the completeness of a response to a parent's written request for information regarding pupil academic performance.

4. Education Code Section 10758. When a request is made in writing, the governing board of the school district shall give to each pupil's natural parent or legal guardian the same written information concerning academic performance that is given to the parent having custody of the pupil. For the purpose of obtaining written information concerning academic performance without inspection of the written records by the parent or guardian, the provisions of this section shall control over Section 10757. Division of Educational Support Services Bulletin No. 35 states, "Academic performance does not include marks in Conduct (Work Habits and Cooperation; Effort and Citizenship), or Attendance." For further information concerning inspection of district public records see pages CI-11 through CI-13, inclusive.

5. Education Code Section 10759. The parent or guardian or any pupil whom the teacher feels is in danger of failing the course is entitled to either notification that a conference will be held concerning the pupil's progress or to a written report. The refusal of the parent or guardian to attend the conference or to respond to the written report, shall not preclude failing the pupil at the end of the grading period.

6. Division of Educational Support Services Bulletin No. 35. A parent who does not have custody but does have reasonable rights of visitation with the child may visit the child at school during school hours provided no court order barring such visitation has been furnished to the school and provided the visit does not interfere with the conduct of school work. See the above mentioned bulletin for further details.

7. *Penal Code Section 12020 (1974 amend.). Any person who manufactures, imports, offers for sale or attempts any of the foregoing or who possesses a nunchaku, specifically described metal plate instrument, blackjack, slungshot, billy, sandclub, sandbag, metal knuckles or sawed-off shotgun or who carried concealed upon his/her person a dirk, dagger or explosive substance is guilty of a felony.

8. Board Rule 1265. No person shall visit or audit a classroom or other school activity, nor shall any person remain on school premises, without the approval of the principal or his/her authorized representative.

B. Civil Accountability

9. Education Code Section 10606. Any *** minor who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district is liable to suspension or expulsion, and the parent or guardian shall be liable for all damages so caused by the *** minor. The parent or guardian of any such minor shall also be liable for the amount of any reward paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a *** minor shall be liable to a school district for all property belonging to the school district loaned to the *** minor and not returned upon demand of an employee of the district authorized to make the demand.

10. Civil Code Section 1714.3. Injury to person or property of another resulting from discharge of a firearm by a minor under 15 years of age shall be imputed to the parent for purposes of civil damages if the parent permitted the minor to have the firearm or left the firearm in a place accessible to the minor.

11. Education Code Section 28801. The parent or guardian or a minor who maliciously cuts, tears, defaces, breaks, or injures any library item shall be liable for all damages so caused by the minor.

12. Education Code Section 28802. The parent or guardian of a minor who willfully detains any property belonging to a school library after written notice to return the article or property shall be liable for all damages so caused by the minor.

13. Government Code Section 53069.5. Parent or guardian or a minor who willfully damages or destroys any property of the school district is liable for the amount of a reward, offered and paid by the school district, for information leading to the identity and apprehension of such minor. See Education Code Section 10606.

14. Government Code Section 53069.6. The school district shall take all practical and reasonable steps, including appropriate legal action, to recover civil damages for the negligent, willful, or unlawful, damaging or taking of the property of the district.

Questioning the Molested Child

Where the abuse of a minor has taken the form of one of the offenses against morals mentioned on pages LR-7 and 8, the school administrator or other District employee should not assume the role of investigator or assume the sensitive task of questioning the child who appears to have been molested. Although there may be a temptation to interrogate, the particular circumstances generally warrant more immediate consideration of such elements as the child's need for medical assistance, emotional distress, desire for privacy, incoherence, or other factors. It should be noted that the following suggested procedures are substantially different than those recommended to parents in a Los Angeles County publication entitled "Laws For Youth" (p. 27):

1. It should be immediately determined by the District employee who receives any report of sexual advances or acts from a child whether medical assistance and/or complete privacy, including an opportunity to lie down is necessary. The child's physical welfare is the primary concern.

2. If the person who first receives such report is not a school administrator, the incident should be reported to the principal as soon as possible.

3. Only the most general form of questioning should be attempted (e.g., What happened to you? How did it happen?). No leading questions of any kind should be advanced which would or could suggest to the child what to say.

4. Call the police. Trained investigators will be dispatched to determine if a crime has been committed and to follow up as circumstances dictate.

5. Notify the parent(s) and advise that the police have been called.

6. Make available to both police and parent(s) the names of individuals who may be able to provide information.

7. Note that the foregoing procedures differ markedly from those outlined on page 1 of H.E.L.P.

Removal of Pupils from Schools by Law-Enforcement Officers

School administrators have at times been reluctant to release a pupil to law-enforcement officers until the parent or guardian of such pupil has been contacted. The Office of County Counsel has advised that Welfare and Institutions Code, Section 625, authorizes a peace officer to take a minor into temporary custody without a warrant. Education Code, Section 13013, authorizes the release of a pupil to a peace officer and requires immediate continued and reasonable efforts on the part of the school administrator to advise the parent or guardian of the pupil's removal from school by the peace officer and of the place to which the pupil has reportedly been taken.

Procedures

A. Prior to releasing the pupil to a peace officer, every reasonable effort should be made by the school administrator to obtain the parent's consent. However, law enforcement officers may not be denied the custody of a pupil, when acting under legal authority.

B. To protect the school district, the school administrator should maintain a record of the school's efforts to reach the parent. Such efforts may include requesting the Pupil Services and Attendance Counselor assigned to the school to make a home visit to notify the parent orally or by leaving a written notice that the pupil has been removed from the school by law-enforcement personnel and giving the place of the pupil's detention.

C. In the event that a pupil has been removed from school by a law-enforcement officer and the school administrator or assignee has been unsuccessful in notifying a parent, guardian or responsible relative of the pupil by the close of the regular school day, it is suggested that the law-enforcement agency be contacted and informed that the school has been unable to notify the parent. Effort to contact the parents should be continued until the school administrator is assured they have been notified.

For further assistance, please call the Coordinator, Juvenile Court Relations, Pupil Services and Attendance Branch.

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* Division of Educational Support Services Bulletin No. 3

Restrictions Upon Political Activity of School District Officers and Employees

The California Government Code[1] states that the right of school district employees to engage in political activity is determined in accordance with the provisions of the California Education Code.

Board Members

The governing board of any school district may make known to the citizens of the district the educational programs and activities of the schools therein.[2]

"The governing board of any school district or any member of the governing board of a school district may prepare or disseminate information or may make public or private appearances or statements for the purpose of urging the passage or defeat of any school measure of the district. . . .

"No school district funds, services, supplies, or equipment shall be used for the purpose of urging the passage or defeat of any school measure of the district, including, but not limited to, the candidacy of any person for election to the governing board of the district."[3]

No school district governing board shall enact or enforce any ordinance or promulgate or enforce any rule or regulation which limits participation of school employees in political activities during their off-duty hours, provided such political activities are not prohibited by the Education Code.[4]

No member of the governing board of a school distr[illegible] in which the merit system has been adopted may directly or ind[illegible]y solicit or be concerned in soliciting any assessment, cont[illegible]tion, or political service of any kind whatsoever for any political purpose from any person who is in the classified service or on an eligibility list.[5]

Administrative Officers

Any administrative officer of a school district may appear at any time before a citizens group which requests his/her appearance to

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1. California Government Code § 3201
2. California Education Code § 1071
3. California Education Code § 1073
4. California Education Code § 13004
5. California Education Code § 13753

discuss the reasons why the governing board of the school district called an election to submit to the voters of the district a proposition for the issuance of bonds or for an increase in the maximum tax rate of the district and to answer questions put to him/her by any taxpayer concerning the cost of such proposals.[6]

No officer or employee of a school district governing board may directly or indirectly coerce or attempt to bring pressure on any other such officer or employee to support or refrain from supporting any political group for any political purpose whatever.[7]

Employees

No classified employee shall engage in political activity during his/her assigned hours of employment.[8]

"During school hours, and within one hour before the time of opening and within one hour after the time of closing of school, pupils of the public school shall not be solicited on school premises by teachers or others to subscribe, contribute to, join or work for any organization not directly under the control of school authorities . . ." except a charitable organization legally chartered as such soliciting for charitable, nonpartisan purposes after receiving permission from the governing board of the school district.[9]

No person who is in the classified service or who is on any eligibility list may be appointed, demoted, or removed, or in any way discriminated against, because of his/her political acts, opinions, or affiliations.[10]

"Employees may circulate petitions on school premises other than as permitted by the Civic Center Act only when the petitions relate to matters of general or public interest or to matters concerning the relationships of employees with the school district. Petitions may be circulated only by employees who are off-duty and may be presented only to employees who are off-duty, including, but not limited to, the duty-free lunch periods. An employee is off-duty before and after the assigned day of the individual employee and during his duty-free lunch period. Petitions may be circulated only in areas of school district premises which are apart from assembled students and classes, including, but not limited to employee lunchrooms or lounges. Petitions must be circulated in such manner as not to interfere materially with the efficient conduct of any school activity."[11]

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6. California Education Code § 1073
7. California Education Code § 13754
8. California Education Code § 13752
9. California Education Code § 9021
10. California Education Code § 13752
11. Board Rule 1267; Office of the Superintendent Bulletin No. 4

Subversive Activities

Any public employee who "advocates or is knowingly a member of the Communist Party or of an organization which during the time of his membership he knows advocates overthrow of the Government of the United States or of any state by force or violence" is subject to dismissal. Any other person who does the foregoing shall be ineligible to hold any office or employment under the State of California.[12]

Any employee of a school district who is knowingly a member of the Communist Party is subject to suspension and dismissal.[13]

No teacher giving instruction in any school in the public school system shall advocate or teach communism with the intent to indoctrinate or to inculcate in the mind of any pupil a preference for communism. This prohibition does not make unlawful the teaching of the facts about communism.[14]

The grounds for dismissal of permanent employee include:[15]

(a) Immoral or unprofessional conduct.[16]

(b) Commission, aiding or advocating acts of criminal syndicalism (Criminal syndicalism means any doctrine or precept advocating, teaching or aiding and abetting the commission of crime, sabotage or unlawful force, violence or terrorism as a means of accomplishing a change in industrial ownership or control or effecting any political change.).[17]

(c) Indoctrinating or inculcating a preference for communism in the mind of a pupil or knowing advocacy of or membership in an organization the employee knows advocates overthrow of the United States government.[18]

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[12] California Constitution, Article XX, Section 19; California Government Code Section 1028

[13] California Education Code § 12957

[14] California Education Code § 9031

[15] California Education Code § 13403

[16] California Education Code § 13403, subdivision (a): Disloyal utterances against the United States constitute the type of disloyal utterances for which a teacher may be dismissed (Laguna Beach, etc., School District v. Lewis, 146 Cal.App.2d 463)

[17] California Penal Code § 11400

[18] California Education Code § 9031
California Government Code § 1028

Use of School Facilities and Services

The Board of Education of the Los Angeles Unified School District permits, as it is statutorily authorized to do, the use of school buildings or grounds for day care programs or public, literary, scientific, recreational, educational or public agency meetings, or for the discussion of matters of general or public interest provided that any such permit must be consistent with the use of the buildings and grounds for school purposes and must not interfere with the regular conduct of school work.[19]

Officially recognized certificated employee organizations may be granted the privilege of the use of school mail service for the free distribution of material relating to the business of the district, upon approval by the Assistant Superintendent, Office of Staff Relations, after the organization has complied with the procedures detailed in Board Rule 3020.

A separate bulletin board with an area of at least nine square feet shall be made available for the use of the Certificated Employee Council and recognized employee organizations for appropriate material of the Certificated Employee Council and recognized employee organizations. One-fourth of the area of such bulletin boards shall be reserved for use by the Certificated Employee Council. All materials posted on this bulletin board shall be dated at the time of posting, signed by the employee posting it, and identified with the name of the organization responsible for its publication. In the event the immediate administrator deems any materials inappropriate, he/she shall contact the Assistant Superintendent, Staff Relations, for the determination.[20]

Based upon the foregoing applicable laws, the following guidelines for administrative action during district related bond elections and tax override elections are quoted verbatim from the Superintendent's memorandum of February 22, 1974, titled "General Legal Concepts Pertaining to Bond Elections and Tax Overrides":

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19. California Education Code §§ 16551, 16552, 16554.5, 16556, 16557; Board Rules 1301, 1302; see Administrative Regulation 1302-1 and Office of Administrative Services Bulletin No. 2 for district regulations regarding use of equipment and permit application procedure respectively.
20. Board Rule 3022

"A school administrator should

be responsible for:	avoid:
the compilation of all available facts pertaining to the needs of the Los Angeles City Schools as these facts relate to the school, to the total school district, and to the school bond;	any compilation or interpretation of data which would tend to exaggerate or distort any fact relating to school bond measures;
the dissemination and interpretation of these facts to individual citizens and groups upon request;	the dissemination of information which might be categorized as propaganda for or against a given issue;
the acceptance of invitations by community groups for speakers to discuss the reasons for the proposed school bond measures at community meetings held during school hours. Any person having administrative responsibilities (vice principals, counselors, registrars, deans) may also accept such invitations.	the acceptance of any invitation to an employee of the school district to leave his teaching assignment for the purpose of speaking for or against the school bond measure.
the distribution of factual information requested by PTA groups, local chambers of commerce, and other groups, even though the administrator knows in advance that the organization has expended or may expend its own funds or use its own facilities in an active campaign for or against an issue;	the misrepresentation or the denial of any facts even though it is known in advance that the organization or individual requesting the facts has campaigned or will campaign for or against the school bond issue;
the distribution of PTA newsettes to be carried home to parents if the material is all factual and does not advocate a position.	the distribution at any time of PTA newsettes or other materials which are not factual and which are of the propaganda type."

NOTE: During their out-of-school hours, school administrators teachers, and other employees may prepare materials or work with groups in the community for or against any measure or candidate in any election. This regulation includes a district school bond election.

PTA MEETINGS

The Parent Teacher Association is expressly authorized under the Civic Center Act to hold meetings in public schools. Accordingly, this organization may consider any subject which is authorized by the Act. This authorization allows the PTA to discuss the pros and cons of school bond elections. In addition, the organization is not required to confine itself to matters directly involving a local school. The subject matters discussed are not necessarily subject to the control of the local school or of the Board of Education.

The PTA may use the school facilities without charge even though admissions are charged or contributions or dues are solicited, as long as the proceeds are used for the support of the PTA and its school activities. If supplemental custodial service is required, see Board Rule 1324.

Factual information relating to any ballot measure which concerns the welfare or activities of the schools may be disseminated by the school district in oral or written form in PTA meetings held on school premises.

It is essential that this information be shared with your entire staff so that we clearly understand our role in providing information to our schools and communities.

Subpoena of Person or Records in Criminal Cases

Background

The rules and procedures regarding subpoenas in civil actions stated on pages CI-23 and CI-24, are generally applicable to the subpoena of persons or records in criminal actions. Pertinent exceptions are noted in the information which follows. The writ (legal paper) by which the attendance of a witness in court is required is the subpoena. In a criminal case the subpoena may be signed and issued by the district attorney or the public defender or either's investigator or by a judge or magistrate or either's clerk.[1] In criminal prosecutions, the defendant has the right to have the process of the court to compel the attendance of witnesses on his/her behalf. This right is protected by both the United States and California Constitutions.[2]

A subpoena duces tecum is an order of the court which requires the person named therein or the appropriate custodian of the records requested to produce in court certain designated documents. When a subpoena duces tecum is duly issued and is served upon a custodian of records or other qualified witness, and his/her personal attendance is not required by the subpoena, the 150 mile or same county limit on power of a subpoena to compel attendance shall not apply.[3]

Service

In criminal cases any person may serve the subpoena. Service is made "by delivering a copy . . . to the witness personally."[4]

When Witnesses Must Attend

Compulsory attendance of a subpoenaed witness is ordinarily governed by the same rule as applied in civil cases, i.e., the witness must attend if he resides within the county or within 150 miles.[3] But in any case, on an affidavit of the prosecutor or the defendant stating a belief that the evidence is material and the attendance is necessary, the judge must endorse a court order mandating attendance of the witness. [fn. Id.] Disobedience to a subpoena is punishable as contempt of court. A witness who disobeys a subpoena issued on behalf of a defendant in a criminal case is liable to the defendant in the sum of one hundred dollars which may be recovered in a civil action, unless the witness can show good cause

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1. California Penal Code, Section 1326
2. California Constitution, Art. I, Sec. 13; U.S. Constitution Amends. VI and XIV cf. *Washington* v. *Texas*, 388 U.S. 14, 87 S.Ct. 1920; see also California Penal Code, Section 686 (3)
3. California Penal Code, Section 1330
4. California Penal Code, Section 1328

for his/her nonattendance.[5] The party at whose request the subpoena was issued and the subpoenaed witness may agree to allow the witness to appear at a time different from that specified in the subpoena. Failure to appear pursuant to the agreement may be punished as a contempt by the court issuing the subpoena.[6]

Fees

It should be noted that in criminal actions witness fees typically are not paid by the process server to the individual subpoenaed. Therefore it is not essential as it is in civil matters that, upon service of a subpoena, witness fees and mileage fees be immediately requested.

The Penal Code now provides:[7]

> "(a) When a person attends before a magistrate, grand jury, or court, as a witness in a criminal case, whether upon a subpoena or in pursuance of an undertaking, or voluntarily, the court, at its discretion, if the attendance of the witness be upon a trial may by an order upon its minutes, or in any criminal proceeding, by a written order, direct the county auditor to draw his warrant upon the county treasurer in favor of such witness for witness' fees at the rate of twelve dollars ($12) for each day's actual attendance and for a reasonable sum to be specified in the order for the necessary expenses of such witness. The court, in its discretion, may make an allowance under this section, or under Chapter 1 (commencing with Section 68070), Title 8, of the Government Code, as it may deem appropriate. The allowances are county charges.
>
> "(b) The court, in its discretion, may authorize payment to such a witness, if he is employed and if his salary is not paid by his employer during the time he is absent from his employment because of being such a witness, of a sum equal to his gross salary for such time, but such sum shall not exceed eighteen dollars ($18) per day. The sum is a county charge.
>
> "A person compensated under the provisions of this subdivision may not receive the payment of witness' fees as provided for in subdivision (a)."

Section 1329(a), supra, allows the court to make an allowance for fees under the provisions of the Government Code. California Government Code, Sections 68093 (superior court), 68094 (grand jury), and 68096 (justice court) all provide not only for a $12 per diem witness fee as does California Penal Code, Section 1329(a), supra, but also a fee of $.20 per mile for mileage traveled one way. A municipal court may determine the manner in which it will compensate witnesses.[8] However, in most cases it appears that California Penal Code, Section 1329, supra, is utilized for purposes of convenience and uniformity.

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[5] California Penal Code, Section 1331

California Penal Code, Section 1331.5

California Penal Code, Section 1329 (as amended Stats. 1973-74, ch. 1083 §1)

California Welfare and Institutions Code, Section 664 provides that a witness attending a juvenile court hearing in compliance with a subpoena issued by the court to compel testimony of the witness or production of papers may be awarded fees in the discretion of the court, pursuant to California Government Code, Section 68093. Section 68093 provides that the court may allow a properly subpoenaed witness compensation of $12 a day plus $.20 a mile for mileage traveled one way.

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8. California Government Code, Section 72232

Teacher Responsibilities

Certain rights and responsibilities particularly significant to staff follow:

Part I. Responsibilities

Administrative Guide Provisions

1. Exercise care of school property in classrooms (Rule 1704).
2. Teach in accordance with curriculum requirements; perform related instructional duties; supervise proper use of District property, supplies, and equipment (Rule 3300).
3. Sign in upon arrival; sign out upon departure (Rule 3303).

California Administrative Code, Title 5

4. Carefully supervise moral conditions of the school (Sec. 5530).
5. Supervise school-sponsored extra-curricular activities (Sec. 5531).
6. Be punctual. Open classrooms within prescribed time regulations; exercise required pupil supervision (Sec. 5570).

Education Code

7. Avoid corrupt practices designed to influence actions of Board members (Sec. 1171).
8. Report attack, assault, or menace by pupil to law enforcement authorities (Sec. 12916).
9. Submit reports required by law (Sec. 13001).
10. Request reimbursement for travel expenses incurred on District business (Sec. 13002).
11. Observe regulations limiting political activities to off-duty periods (Sec. 13004). See Handbook, page CI-30, CI-40, CI-41.
12. School official must notify parent of release of minor child to peace officer (Sec. 13013).

13. Attend institutes when prescribed by District (Sec. 13368).

14. Refrain from specified conduct which may constitute grounds for dismissal (Sec. 13403).

15. Enforce the course of study; use authorized textbooks; observe and enforce District rules and regulations (Sec. 13556).

16. Instruct pupils concerning morals, manners, and citizenship (Sec. 13556.5).

17. Hold pupils to strict account for their conduct; use no greater physical control than necessary to maintain order, protect property, safeguard other pupils, and preserve conditions conducive to learning (Sec. 13557).

18. Maintain the school register (Sec. 13558).

Government Code

19. Recognize liability for injury caused by act or omission (Sec. 820).

20. Recognize that exception from liability for injury exists where act or omission was result of exercise of discretion vested in employee (Sec. 820.2).

21. Recognize that liability for false arrest or false imprisonment is applicable to public employees (Sec. 820.4).

22. Recognize liability for injuries resulting from actual fraud, corruption, or malice (Sec. 822.2).

Penal Code

23. Report to school administrator any child who is observed to have been sexually molested, subjected to inexcusable physical pain or mental suffering, or appears to be the victim of a physical injury by other than accidental means (Sec. 11161.5). See Division of Educational Support Services Bulletin No. 22.

Part II. Rights

Administrative Guide Provisions

1. Right to be free from unauthorized and unwarranted invasion of personal privacy resulting from dissemination of tapes, data cards, or employee residence and phone lists (Admin. Reg. 1411-1).

2. Right to time off to vote when franchise privilege cannot be exercised at other than during assigned hours. Except in an emergency, neither faculty meeting nor special after-school

assignments should be scheduled on election day (Rule 1930; Admin. Regs. 1931-1, 1931-2).

3. Right to be free from discriminatory action as a result of filing a grievance (Rule 3419).

4. Right to conference prior to submission to employee and Board of written notice recommending dismissal because of unsatisfactory service (Rule 3503).

5. Right to inspect materials in one's personnel file which may affect employment status. Right to copy of personnel file item critical of performance or character (Rule 3510).

6. Right to investigation within 30 days of unsoliticted derogatory communication, notice permitting review of allegations, and opportunity to make written response (Rule 3511).

California Administrative Code, Title 5

7. Right to equal opportunity in employment and freedom from discrimination based on race, sex, color, religion, age, physical handicap, ancestry, or national origin (Sec. 31).

8. Right to a duty-free lunch period of not less than 30 minutes scheduled as close to noon as is reasonably possible (Sec. 5600).

Education Code

9. Right to inspect material in one's personnel file which may affect employment status (Sec. 13001.5).

10. Right to freedom from disciplinary action or discrimination for appearance before the Board of Education (Sec. 13008).

11. Right to salary while attending an institute session and to traveling expenses incurred by such attendance (Sec. 13369).

12. Right of permanent employee against whom dismissal charges have been filed to notice of charges, notice of intention to dismiss, and provision for hearing (Sec. 13404, 13405, 13407).

13. Right of female teachers to same compensation allowed male teachers for like services when holding same credentials. (Sec. 13501).

14. Right to absent oneself from employee duties in order to render military service without affecting employee classification. Right of probationary teacher to render military service without interrupting continuity of service required for permanent status. Military service does not count as experience applicable toward tenure (Sec. 13552).

15. Right to a duty free lunch period (Sec. 13561).

NOTE: The text of statutes or administrative code sections referred to herein may be found in the Statutes segment of the Handbook.

GLOSSARY

Code Abbreviations/References

5 CAC = California Administrative Code, Title 5

B & P = California Business and Professions Code

CC = California Civil Code

CCP = California Code of Civil Procedure

EC = California Education Code

GC = California Government Code

H & S = California Health and Safety Code

LC = California Labor Code

PC = California Penal Code

W & I = California Welfare and Institutions Code

Mun.C = Los Angeles Municipal Code

Citation Abbreviations/References

Case Title (underlined) = identifies source of judicial opinion

C = California Reports (State Supreme Court opinions)

C.2d = California Reports, 2d series (State Supreme Court opinions)

C.3d = California Reports, 3d series (State Supreme Court opinions)

Cal.Rptr. = California Reporter (State Supreme Court and Appellate Court opinions)

C.A.2d = California Appellate Reports, 2d series (State Appellate Court opinions)

C.A.3d = California Appellate Reports, 3d series (State Appellate Court opinions)

C.A.Supp = California Appellate Supplement

NYS = New York Supplement (reported cases, various levels, New York State courts)

P = Pacific Reporter

P.2d = Pacific Reporter, 2d series

SRR = Student Rights and Responsibilities (handbook)

U.S. = United States Reports (United States Supreme Court opinions)

1. Assault: An unlawful attempt, coupled with a present ability to commit a violent injury on the person of another (P.C. Sec. 240). Assault does not include battery but rather is an attempt to commit a battery [People v. McCaffrey (1953) 118 C.A.2d 611, 258 P.2d 557]; a misdemeanor (P.C.Sec. 241).

2. Battery: Any willful and unlawful use of force or violence upon the person of another (P.C.Sec. 242). Battery includes and implies an assault, for there can be no battery without an assault [People v. Duchon (1958) 165 C.A.2d 690, 332 P.2d 373]; a misdemeanor (P.C.Sec. 243).

3. Boycott: An action, by one or more persons, consisting of the withdrawal of patronage of, and/or association with a party in order to force the party to suffer financially and/or change in some way. [Pierce v. Stablemen's Union (1909) 156 C 70, 75, 103 P 324]

4. Conspiracy: An agreement of two or more persons to do an unlawful act by unlawful means [People v. Daniels (1894) 105 C 262, 267, 38 P 720].

5. Conspiracy, Criminal: An agreement of two or more persons to commit an offense prohibited by statute, accompanied by some overt act in furtherance of the objects of the agreement (P.C.Secs. 182, 184); a misdemeanor or felony (P.C.Sec. 182).

6. Conversion: Any act of dominion wrongfully exercised over another's personal property in denial of or inconsistent with his/her rights therein [Carrey v. Boyes Hot Springs Resort, Inc. (1966) 245 C.A.2d 618, 54 Cal.Rptr. 199].

7. Crime: An act committed or omitted in violation of public law to which a punishment is annexed [Doble v. Superior Court (1925) 197 C 556, 241 P 852].

8. Crime, Felony: A crime which is punishable by death or imprisonment in the state prison (P.C.Sec.17).

9. Crime, Misdemeanor: A crime other than a felony (P.C.Sec.17); of a lesser degree than felony.

10. Damage: The loss, injury, or deterioration caused by the negligence, design, or accident of one person to another in respect to the latter's person or property (Wainscott v. Occidental Bldg. and Loan Assn. (1893) 98 C 253, 33 P 88].

11. Deadly Weapon, Assault With: A deadly weapon is one likely to produce death or great bodily harm [People v. Helms (1966) 242 C.A.2d 476, 51 Cal.Rptr. 484]. Instruments, in addition to those specified in P.C.Sec. 3024f, may be classified as "deadly weapons" in accordance with circumstances in which used.

Crimes involving deadly weapons are:

a. Having upon one's person any deadly weapon with intent to assault another; a misdemeanor (P.C.Sec. 467).

b. Committing an assault upon another with a deadly weapon; a felony (P.C.Sec. 245).

c. Carrying concealed on one's person or concealed within any vehicle which is under one's control, any firearm without having a license to carry such firearm; a misdemeanor (P.C.Sec. 12025).

12. Disorderly Conduct: A misdemeanor, defined by P.C.Sec.647 in the form of specific acts such as:

a. Engaging in lewd conduct in any public place.

b. Accosting other persons in any public place for the purpose of begging or soliciting.

c. Loitering around any toilet open to the public for the purpose of engaging in or soliciting any lewd or unlawful act.

d. Loitering or wandering upon the streets without apparent reason and refusing to present identification when requested by any peace officer.

e. Being found in any public place under the influence of an intoxicating liquor or drug.

f. Lodging in any building or place, whether public or private, without the permission of the owner or person entitled to possession or in control thereof.

13. Disturbance: An act or series of acts by one or more individuals which

a. interrupts, obstructs, or interferes with the school's educational program;

b. is inimical to the health, safety, or welfare of other students or school personnel;

c. damages school property or the property of others assigned to the school;

d. disrupts or endangers the orderly operation of the school.

14. Disturbing the Peace: Also known as "breach of the peace," a violation of the public tranquility and order [People v. Anderson (1931) 117 C.A.Supp.763, 767, 1 P.2d 64]. To maliciously and willfully disturb the peace or quiet of any neighborhood or person is a misdemeanor (P.C.Sec. 415).

15. Drugs: As defined in the Health and Safety Code, any of the following:

    a. Any article which is recognized in an official compendium.

    b. Any article which is used or intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or any other animal.

    c. Any article other than food, which is used or intended to affect the structure or any function of the body of man or any other animal.

    d. Any article which is used or intended for use as a component of any article designated in subdivision a., b., or c. The term drug does not include any device (Health and Safety Code Section 26010).

16. Drugs, Dangerous: See California Health and Safety Code Sections 11032, 11053-8 under Statutes. Any drug unsafe for self-medication except drugs designed and labeled as exclusively for feeding or treatment of animals other than man. Certain miscellaneous drugs are specifically excepted under the dangerous drug statute (California Business and Professions Code Section 4211).

17. Extortion: The obtaining of property from another with his/her consent, or obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right (P.C.Sec.518). Attempted extortion is a felony (P.C.Sec.524). The act of extortion is a felony (P.C.Sec.520). Distinguished from robbery in that the latter is taking of personal property in the possession of another from his person and "against his will" by means of force or fear (P.C.Sec.211).

18. Incident: An act or occurrence of minor consequence which affects a limited number of students or school personnel and which normally will be controlled and terminated by the recognized authority of teacher or administrator without additional assistance or interference with the school's educational program.

19. Loitering: Lingering at some place for the purpose of committing a crime should the opportunity arise [Cregler, In Re (1961) 56 C.2d 308, 311, 14 Cal.Rptr.289, 363 P.2d 305].

   a. Loitering (School or Public Place): To loiter about any school or public place at or near which children attend or normally congregate is a misdemeanor (P.C. Sec.653g).

   b. Loitering (Adult School): To loiter about any adult school and annoy or molest any person in attendance therein is a misdemeanor (P.C.Sec.647b).

   c. "Loiter" means to delay, to linger, or to idle about any such school or public place without a lawful purpose for being present (P.C.Sec.653g).

20. Malicious Mischief: The willful or malicious destruction of any real or personal property belonging to another; a misdemeanor (P.C.Sec.594).

21. Minor: Refers to any person under the age of 18 years (California Civil Code Section 25).

22. Narcotic Drug: Any salt, compound, derivative or preparation of or equivalent to opium, opiate or cocoa leaves and includes opium poppy and poppy straw (California Health and Safety Code Section 11019).

23. Narcotics: Refer to Health and Safety Code Sections 11054 and 11055 under Statutes.

24. Narcotics, Under the Influence of: When a narcotic drug appreciably affects the nervous system, brain, muscles, or other parts of a person's body, or creates in him any perceptible abnormal mental or physical condition [People v. Culberson (1956) 140 C.A.2d Supp.959, 960, 295 P.2d 598]; [proscribed by Health and Safety Code Section 11550 except when the narcotic has been administered by or under the direction of a person licensed by the state]; a misdemeanor (Health and Safety Code Section 11550).

25. Picketing, Lawful: An organized demonstration by one or more persons for the purpose of achieving a specific goal; an aspect of free speech [Pezold v. Amalgamated Meat Cutters and Butchers Workmen of North America (1942) 54 C.A.2d 120, 128 P.2d 611].

26. Picketing, Unlawful: An assembling of two or more persons together to do an unlawful act; doing a lawful act in a violent or boisterous manner; a form of unlawful assembly, a misdemeanor (P.C.Sec.407).

27. Robbery: The use of force or fear to take personal property from another's person or immediate presence against his will (P.C.Sec.211); a felony (P.C.Sec.213). "Extortion" differs from "robbery" in that the former involves a taking of property with the consent of the owner or possessor (by force or threat) while the latter involves a taking of property against the will of the owner or possessor.

28. Search, Unlawful: An invasion of one's privacy without a warrant, except when the public's welfare is endangered [People v. Cahan (1955) 44 C.A.2d 434, 282 P.2d 905].

29. Sit-in: Sit-down; an act of occupying seats or space in an establishment in organized protest. (Websters Seventh New Collegiate Dictionary)

30. Strike: A concerted action by a group resulting in a work stoppage [Pierce v. Stablemen's Union Local No. 8760 (1909 156 C 70, 75, 103 P 324].

31. Theft: The unlawful taking and removing of personal property with intent to deprive the rightful owner of it. (P.C.Sec. 484). Theft includes such crimes as larceny, embezzlement, fraudulent appropriation, and obtaining property under false pretenses [People v. Jones (1950) 36 C.2d 373, 376, 224 P.2d 353]. Theft can be either a misdemeanor or a felong (P.C. Secs.489, 490).

32. Trespass: Entering and occupying real property without the consent of the owner or the person in charge; a misdemeanor (P.C.Sec.602).

33. Unlawful Assembly: Whenever two or more persons assemble to do an unlawful act, or do a lawful act in a violent or boisterous manner. Participation is a misdemeanor (P.C. Sec.408); remaining present at place of unlawful assembly after being told to disperse is a misdemeanor (P.C.Sec.409). See "Picketing"; "Picketing, Unlawful" (numbers 25, 26).

34. Vandalism: Another term for "Malicious Mischief" (see number 20).

35. Walk-out: To go on strike; to leave suddenly, often as an expression of disapproval. (Websters Seventh New Collegiate Dictionary)

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California Labor Code S-69

California Penal Code S-71

California Welfare and Institutions Code S-113

Los Angeles Municipal Code S-114

California Administrative Code, Title 5

31. **Policy.** The State Board of Education maintains as its policy to provide equal opportunity in employment for all persons and to prohibit discrimination based on race, sex, color, religion, age, physical handicap, ancestry, or national origin in every aspect of personnel policy and practice in employment, development, advancement, and treatment of employees; and to promote the total realization of equal employment opportunity through a continuing affirmative action employment program.

300. **Duties Generally.** Every pupil shall attend school punctually and regularly; conform to the regulations of the school; obey promptly all the directions of his teacher and others in authority; observe good order and propriety of deportment; be diligent in study; respectful to his teacher and others in authority; kind and courteous to schoolmates; and refrain entirely from the use of profane and vulgar language.

301. **Duty to Refrain from Certain Conduct.** While on the school grounds (or elsewhere when under the authority or direct supervision of school personnel or when such conduct is otherwise related to school activity or school attendance), a pupil shall refrain from any and all of the following acts:

(a) Gambling; immorality; profanity; and the use or possession of tobacco, intoxicating liquor, narcotics or other hallucinogenic or dangerous drugs or substances. (Drugs shown to have been prescribed by a licensed physician for a pupil are an exception as to that pupil.)

(b) Wilful or negligent conduct likely to result in injury to other pupils or school employees or in damage to school property.

302. **Pupils to Be Neat and Clean on Entering School.** A pupil who goes to school without proper attention having been given to personal cleanliness or neatness of dress, may be sent home to be properly prepared for school, or shall be required to prepare himself for the schoolroom before entering.

303. **Duty to Remain at School.** A pupil may not leave the school premises at recess, or at any other time before the regular hour for closing school, except in case of emergency, or with the approval of the principal of the school.

304. **Leaving Room at Recess.** Every pupil shall leave the schoolroom at recess unless it would occasion an exposure of health.

305. **Pupil Responsible for Care of Property.** A pupil who defaces, damages, or destroys any school property or wilfully or negligently injures another pupil or school employee is liable to suspension or expulsion, according to the nature of the offense.

306. Explanation of Absence. A principal or teacher may require satisfactory explanation from the parent or guardian of a pupil, either in person or by written note, whenever the pupil is absent a part or all of a school day. The explanation shall not be required until the day following.

307. Participation in School Activities Until Departure of Bus. A pupil for whom the district provides transportation facilities may be required to remain at school to participate in activities approved by the superintendent of schools or by the governing board until the departure of the pupil in the vehicle to which he has been assigned.

351. Work or Services Required of Pupils. A pupil shall not be required to perform work or services that may be detrimental to his health.

352. Detention During Recess or Noon Intermission. A pupil shall not be required to remain in school during the intermission at noon, or during any recess.

353. Detention After School. A pupil shall not be detained in school for disciplinary or other reasons for more than one hour after the close of the maximum school day, except as otherwise provided in Section 307.

438. Withholding Prohibited. The cumulative record shall not be withheld from the requesting district because of any charges or fees owed by the pupil or his parent.

571. Age or Grade of Members. A pupil enrolled in the school who is either less than 10 years old or enrolled in a grade below the fifth grade may not be a member of the patrol.

1021. Tests and Procedures. (a) The governing board of each school district maintaining grade 6 or grade 12, or both, shall purchase and administer to each pupil in those grades the achievement test for basic skills courses designated by the respective grade by the State Board of Education.

Pupils in a school maintaining a year-around program shall be administered the achievement test during the second calendar month of school. All other pupils shall be administered the achievement test in October.

(b) After the tests have been given, the district superintendent, or the county superintendent if the district has no superintendent, shall certify that the tests were given in accordance with the procedures specified by the publishers of the tests.

(c) The tests may be scored by any of the following:
(1) Employees of the district.
(2) Employees of the county superintendent

(3) The publisher's scoring services.
(4) Other scoring services.

(d) After the tests are scored, the district superintendent, or the county superintendent if the district has no superintendent, shall certify that the tests were scored in accordance with the procedures specified by the publisher of the tests.

(e) The governing board of a school district may authorize the scores to be submitted to the State Department of Education by any of the following:

(1) The district superintendent.
(2) The county superintendent of schools.
(3) The publisher's scoring service.
(4) The chief administrator of other scoring services who performed the actual scoring.

The scores shall be submitted on dates specified by the Superintendent of Public Instruction and on forms which he shall furnish or on punched cards or magnetic tape in formats which he shall approve.

1041. Required Program. During the period of March-May, inclusive, the governing board of each school district maintaining grades 5, 7, and 10, or any one or more of such grades, shall administer to each pupil in those grades the physical performance test designated by the State Board of Education.

Each physically handicapped pupil and each pupil who is physically unable to take all of the physical performance test shall be given as much of the test as his condition will permit.

1051. Pupils to Be Tested and Time of Testing. The reading test adopted by the State Board of Education for a designated grade shall be given to each pupil enrolled in that grade in accordance with the schedule set forth in this section. In nongraded primary sections, pupils shall be certified as first, second, or third grade pupils for purposes of official enrollment and are deemed, for the purposes of this article, to be enrolled in the respective grades for which they are so certified.

Testing Period	Pupils to be Tested
First 10 school days in January	All pupils enrolled in Grades 1, 2, and 3 who are considered mid-year entrants
First 10 school days in May	All pupils enrolled in Grades 1, 2 and 3 who are considered September entrants
Ten school days commencing no sooner than the 140th school day nor later than the 155th school day	All pupils enrolled in Grades 1, 2, and 3 in a school maintaining a year-around program

5530. Moral Supervision. All certificated personnel shall exercise careful supervision over the moral conditions in their respective schools. The governing board, principals, and other certificated personnel shall not tolerate any act of a pupil described in Section 301.

History: 1. New Chapter 1 (§§ 5530, 5531, 5550–5556, 5570 and 5590) filed 9-23-69 effective thirtieth day thereafter (Register 69, No. 39).

5531. Supervision of Extracurricular Activities of Pupils. All athletic and social activities of pupils, wherever held, if conducted under the name or auspices of a public school or of any class or organization thereof, shall be under the direct supervision of certificated employees of the district.

5551. Administration of School. The principal is responsible for the supervision and administration of his school.

5570. When School Shall Be Open and Teachers Present. Unless otherwise provided by rule of the governing board of the school district, teachers are required to be present at their respective rooms, and to open them for admission of the pupils, not less than 30 minutes before the time prescribed for commencing school.

All teachers shall observe punctually the hours fixed by regulation of the governing board of the school district for opening and closing school.

5600. Duty-Free Lunch Period. The duty-free lunch period for teachers and other certificated employees required by Education Code Section 13561 shall be not less than 30 minutes. It shall be allowed as near noon as is reasonably possible.

If the principal leaves the school premises during his duty-free lunch period, he shall leave the vice-principal or other certificated employee in charge.

5800. Functions of Certain Administrative and Supervisory Positions in School Districts. For the purposes of Education Code Sections 13055 and 13197.7 and subject to the provisions of Education Code Section 931, the following positions in a school district maintaining any grade of K through 12 are identified by the functions of the positions:

(m) **Principal.** A position entitled "principal" has the following function: To serve, under the governing board when there is no superintendent of the district or when there is a superintendent under the direction of any person (other than a person described in (c) or (e)) whose title contains the word ''superintendent,'' as chief executive officer of one or more schools with total responsibility to manage all affairs of the school, including general control and supervision of all certificated and classified employees assigned to serve in the school.

(n) **Vice-Principal.** A position entitled "vice-principal" or "assistant principal'' (including assistant president) has the following functions:

(1) To perform for the principal such duties of the principal as the latter may delegate to him.

(2) To act for the principal during the principal's absence from the school and during any incapacity of the principal to serve.

14250. Smoking in Bus. Smoking in a school bus shall be prohibited whenever pupils are aboard.

14251. Intoxicating Liquors. Intoxicating liquor shall not be carried in a school bus at any time.

14252. Animals. No animals shall be transported in a school bus except guide dogs permitted as provided in Section 16867 of the Education Code.

14253. Weapons. No loaded weapons of any sort, except side arms carried by a peace officer, shall be transported on a school bus.

14263. Authority of Driver. (a) Pupils transported in a school bus shall be under the authority of, and responsible directly to, the driver of the bus, and the driver shall be held responsible for the orderly conduct of the pupils while they are on the bus or being escorted across a street, highway or road. Continued disorderly conduct or persistent refusal to submit to the authority of the driver shall be sufficient reason for a pupil to be denied transportation. A bus driver shall not require any pupil to leave the bus enroute between home and school or other destinations.

(b) Boards of trustees shall adopt rules and regulations to enforce this section. These regulations shall include, but not be limited to, specific administrative procedures relating to suspension of riding privileges and shall be made available to parents, pupils, teachers, and other interested parties.

§4211. "Dangerous drug": "Hypnotic drug."
"Dangerous drug" means any drug unsafe for self-medication, except preparations of drugs defined in subdivisions (e), (f), (h), and (i) hereof, designed for the purpose of feeding or treating animals (other than man) or poultry, and so labeled, and includes the following:

(a) Any hypnotic drug. "Hypnotic drug" includes acetylurea derivatives, barbituric acid derivatives, chloral, paraldehyde, sulfomethane derivatives, or any compounds or mixtures or preparations that may be used for producing hypnotic effects.

(b) Aminopyrine, or compounds or mixtures thereof.

(c) Amphetamine, desoxyephedrine, or compounds or mixtures thereof except preparations for use in the nose and unfit for internal use.

(d) Cinchophen, neocinchophen, or compounds or mixtures thereof.

(e) Diethyl-stilbestrol, or compounds or mixtures thereof.

(f) Ergot, cotton root, or their contained or derived active compounds or mixtures thereof.

(g) Oils of croton, rue, savin or tansy or their contained or derived compounds or mixtures thereof.

(h) Sulfanilamide or substituted sulfanilamides, or compounds or mixtures thereof, except preparations for topical application only containing not more than five percent (5%) strength.

(i) Thyroid and its contained or derived active compounds or mixtures thereof.

(j) Phenylhydantoin derivatives.

(k) Any drug or device which bears the legend: "Caution: federal law prohibits dispensing without prescription."

(l) Hypnotic drugs when combined and compounded with non-hypnotic drugs.

(m) Any narcotic antagonist drug which has been found by the federal government to have currently accepted medical use in treatment in the United States and to have no potential for abuse or abuse liability.

§ 25608. Consumption, sale, etc., of alcoholic beverages on school premises forbidden: When prohibition inapplicable: Additional penalty for violation of section.

Every person who possesses, consumes, sells, gives, or delivers to any other person, any alcoholic beverage in or on any public schoolhouse or any of the grounds thereof is guilty of a misdemeanor. This section does not, however, make it unlawful for any person to acquire, possess, or use any alcoholic beverage in or on any public schoolhouse, or on any grounds thereof, if the alcoholic beverage is acquired, possessed, or used in connection with a course of instruction given at the school and such person has been authorized to acquire, possess, or use it by the governing body or other administrative head of the school. Any person convicted of a violation of this section shall, in addition to the penalty imposed for the misdemeanor, be barred from having or receiving any privilege of the use of public school property which is accorded by Chapter 4 (commencing with Section 16551) of Division 12 of the Education Code.

§ 25658. **Sale, etc., to minor.** (a) Every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any person under the age of 21 years is guilty of a misdemeanor.

(b) Any person under the age of 21 years who purchases any alcoholic beverage, or any person under the age of 21 years who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100), no part of which shall be suspended.

(c) Any on-sale licensee who knowingly permits a person under the age of 21 years to consume any alcoholic beverage in the on-sale premises, whether or not the licensee has knowledge that the person is under the age of 21 years, is guilty of a misdemeanor.

§ 25662. Possession by person under twenty-one years of age: Misdemeanor.

Any person under the age of 21 years who has any alcoholic beverage in his possession on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his parent or in pursuance of his employment.

California Civil Code

§25. [Definition of minors]
Minors are all persons under 18 years of age.

§1714.1. [Civil liability of parents for minor's acts of willful misconduct resulting in death, personal injury, or property damage]
Any act of willful misconduct of a minor which results in injury or death to another person or in any injury to the property of another shall be imputed to the parents having custody or control of the minor for all purposes of civil damages, and such parents having custody or control shall be jointly and severally liable with such minor for any damages resulting from such willful conduct.

The joint and several liability of one or both parents having custody or control of a minor under this section shall not exceed two thousand dollars ($2,000) for each tort of the minor, and in the case of injury to a person, such imputed liability shall be further limited to medical, dental and hospital expenses incurred by such injured person, not to exceed two thousand dollars ($2,000). The liability imposed by this section is in addition to any liability now imposed by law.

§1714.3. [Civil liability of parents for injuries from discharge of firearm by minor under 15: Maximum liability]
Civil liability for any injury to the person or property of another proximately caused by the discharge of a firearm by a minor under the age of 15 years shall be imputed to a parent or guardian having custody or control of the minor for all purposes of civil damages, and such parent or guardian shall be jointly and severally liable with such minor for any damages resulting from such act, if such parent or guardian either permitted the minor to have the firearm or left the firearm in a place accessible to the minor.

The liability imposed by this section is in addition to any liability now imposed by law. However, no person, or group of persons collectively, shall incur liability under this section in any amount exceeding fifteen thousand dollars ($15,000) for injury to or death of one person as a result of any one occurrence or, subject to the limit as to one person, exceeding thirty thousand dollars ($30,000) for injury to or death of all persons as a result of any one such occurrence.

California Code of Civil Procedure

§ 1985. [Subpoena: Definition: Subpoena duces tecum, affidavit.]

The process by which the attendance of a witness is required is the subpoena. It is a writ or order directed to a person and requiring his attendance at a particular time and place to testify as a witness. It may also require him to bring with him any books, documents, or other things under his control which he is bound by law to produce in evidence. *When a county recorder is using the microfilm system for recording, and he is subpoenaed to present a record, he shall be deemed to have complied with the subpoena if he produces a certified copy thereof.* [1]

A copy of an affidavit shall be served with a subpoena duces tecum issued before trial, [2] showing good cause for the production of the matters and things described in such subpoena, *specifying* [3] the exact matters or things desired to be produced, *setting* [4] forth in full detail the materiality thereof to the issues involved in the case, and *stating* [5] that the witness has the desired matters or things in his possession or under his control.

The clerk, or if there be no clerk, the judge, shall issue a subpoena or subpoena duces tecum signed and sealed but otherwise in blank to a party requesting it, who shall fill it in before service. Nothing herein shall authorize the issuance of a subpoena or subpoena duces tecum in cases provided for by Sections 68097.1 to 68097.10, inclusive, of the Government Code unless the required payment or deposit has been made. [6] [Am. Stats. 1967, ch. 431, § 1; Stats. 1968, ch. 95, § 1.]

§ 1985.1. [Same: Agreement to appear at time other than that specified in subpoena: Contempt by failure to appear: Affidavit as to agreement.]

Any person who is subpoenaed to appear at a session of court, or at the trial of an issue therein, may, in lieu of appearance at the time specified in the subpoena, agree with the party at whose request the subpoena was issued to appear at another time or upon such notice as may be agreed upon. Any failure to appear pursuant to such agreement may be punished as a contempt by the court issuing the subpoena. The facts establishing or disproving such agreement and the failure to appear may be proved by an affidavit of any person having personal knowledge of the facts. [Added by Stats. 1969, ch. 140, § 1.]

§ 1987. [Same: Service.]

(a) [1] *Except as provided in Sections 68097.1 to 68097.8, inclusive, of the Government Code,* [2] the service of a subpoena is made by [3] delivering a copy, or a ticket containing its substance, to the witness personally, giving or offering to him at the same time, if demanded by him, the fees to which he is entitled for travel to and from the place designated, and one day's attendance there. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance. Such service may be made by any person.

(b) In the case of the production of a party to the record of any civil action or proceeding or of a person for whose immediate benefit an action or proceeding is prosecuted or defended or of anyone who is an officer, director, or managing agent of any such party or person, the service of a subpoena upon any such witness is not required if written notice requesting such witness to attend before a court, or at a trial of an issue therein, with the time and place thereof, is served upon the attorney of such party or person. Such notice shall be served at least 10 days before the time required for attendance unless the court prescribes a shorter time. If entitled thereto, such witness, upon demand, shall be paid witness fees and mileage before being required to testify. The giving of such notice shall have the same effect as service of a subpoena on the witness, and the parties shall have such rights and the court may make such orders, including the imposition of sanctions, as in the case of a subpoena for attendance before the court. Such notice cannot require the attendance of such witness at a place more than 150 miles from the residence of such witness. [1]

(c) If the notice specified in subdivision (b) is served at least 20 days before the time required for attendance, or within such shorter time as the court may order, it may include a request that such party or person bring with him books, documents or other things. The notice shall state the exact materials or things desired and that such party or person has them in his possession or under his control. Within five days thereafter, or such other period as the court may allow, the party or person of whom the request is made may serve and file written objections to the request or any part thereof, with a statement of grounds. Thereafter, upon noticed motion of the requesting party, accompanied by a showing of good cause and of materiality of the items to the issues, the court may order production of items to which objection was made, unless the objecting party or person establishes good cause for non-production or production under limitations or conditions. The procedure of this subdivision is alternative to the procedure provided by Sections 1985 and 1987.5 in the cases herein provided for, and no subpoena duces tecum shall be required.

Subject to the provisions of this subdivision, the notice herein provided shall have the same effect as is provided in subdivision (b) as to a notice for attendance of such party or person. [4] [Am. Stats. 1963, ch. 1485, § 3; Stats. 1968, ch. 933, § 1; Stats. 1969, ch. 311, § 1, ch. 1034, § 1.5.]

California Education Code

§921. Control of district by board of trustees or board of education

Every school district shall be under the control of a board of school trustees or a board of education.

§ 925. Adoption of rules by governing boards

The governing board of each school district shall prescribe and enforce rules not inconsistent with law or with the rules prescribed by the State Board of Education, for its own government.

§ 967. Executive sessions

Notwithstanding the provisions of Section 966 of this code and Section 54950 of the Government Code, the governing body of a school district may hold executive sessions to consider the expulsion, suspension, or disciplinary action in connection with any pupil of the school district, if a public hearing upon such question would lead to the giving out of information concerning school pupils which would be in violation of Section 10751 of the Education Code.

Before calling such executive session of the governing board of the district to consider these matters, the governing board of the district shall, in writing, by registered or certified mail or by personal service, if the pupil is a minor, notify the pupil and his parent or guardian, or the pupil if the pupil is an adult, of the intent of the governing board of the district to call and hold such executive session. Unless the pupil, or his parent, or guardian shall, in writing, within 48 hours after receipt of such written notice of intention, request that the hearing of the governing board be held as a public meeting, then the hearing to consider such matters may be conducted by the governing board in executive session. If such written request is served upon the clerk or secretary of the governing board, the meeting shall be public. Whether the matter is considered at an executive session or at a public meeting, the final action of the governing board of the school district shall be taken at a public meeting and the result of such action shall be a public record of the school district.

§ 1051. Maintenance of schools and classes

The governing board of any school district shall maintain schools and classes as provided by law.

§ 1052. Rules

The governing board of any school district shall prescribe rules not inconsistent with law or with the rules prescribed by the State Board of Education, for the government and discipline of the schools under its jurisdiction.

§1071. Certain powers relating to promotion of advancement of education

The governing board of any school district may:

(a) Conduct studies through research and investigation as are determined by it to be required in connection with the present and future management, conditions, needs, and financial support of the schools; or join with other school district governing boards in the conduct of such studies.

(b) Install and maintain exhibits of educational programs and activities of the school district at any county fair held in the county in which the district is located in whole or in part, or at any agricultural district fair held in the county in which the school district is located in whole or in part.

(c) Inform and make known to the citizens of the district, the educational programs and activities of the schools therein.

(d) Subscribe for membership for any school under its jurisdiction in any society, association, or organization which has for its primary purpose the promotion and advancement of public or private education.

(e) Subscribe for membership in, or otherwise become a member of, any national, state or local organization of governing boards of school districts or members thereof which has for its primary purposes the promotion and advancement of public education through research and investigation and the co-operation with persons and associations whose interests and purposes are the betterment of the educational opportunities of the children of the State.

(f) Select a member or members of the board to attend meetings of any society, association, or organization for which the school district has subscribed for membership, or any convention to which it may pay the expenses of any employee.

§1073. [Authority of governing board to urge passage or defeat of "school measure; prohibition of use of district funds, services, supplies, or equipment; authorized appearance before citizens group]

The governing board of any school district or any member of the governing board of a school district may prepare or disseminate information or may make public or private appearances or statements for the purpose of urging the passage or defeat of any school measure of the district.

As used in the section, "school measure" includes any proposition for the issuance of bonds of the school district, an increase in the maximum tax rate of the school district, the acceptance, expenditure, and repayment of state funds by the school district to enable the school district to construct buildings and other facilities, or the candidacy of any person for election to the governing board of the school district.

No school district funds, services, supplies, or equipment shall be used for the purpose of urging the passage or defeat of any school measure of the district, including, but not limited to, the candidacy of any person for election to the governing board of the district.

Nothing in this code shall be construed as prohibiting any administrative officer of a school district from appearing at any time before a citizens group, which requests his appearance, to discuss the reasons why the governing board of the school district called an election to submit to the voters of the district a proposition for the issuance of bonds or for an increase in the maximum tax rate of the district and to answer questions put to him by any taxpayer concerning the cost of such proposals.

§ 1171. Corrupt practices as a misdemeanor

The offering of any valuable thing to any member of the governing board of any school district, with the intent to influence his action in regard to the granting of any teacher's certificate, the appointment of any teacher, superintendent, or other officer or employee, the adoption of any textbook, or the making of any contract to which the board of which he is a member is a party, or the acceptance by any member of the governing board of any valuable thing, with corrupt intent, is a misdemeanor.

§ 9011. Prohibited study or supplemental materials

Except as to textbooks approved by the state board or a county board of education, no bulletin, circular, or publication may be used as the basis of study or recitation or to supplement the regular school studies if the material contained in the bulletin, circular, or publication has been disapproved by the governing board of the school district in which the school is situated.

§9015. The Legislature finds that the use by any person, including a pupil, of any electronic listening or recording device in any classroom of the elementary and secondary schools without the prior consent of the teacher and the principal of the school given to promote an educational purpose disrupts and impairs the teaching process and discipline in the elementary and secondary schools, and such use is prohibited. Any person, other than a pupil, who willfully violates this section shall be guilty of a misdemeanor.

Any pupil violating this section shall be subject to appropriate disciplinary action.

This section shall not be construed as affecting the powers, rights, and liabilities arising from the use of electronic listening or recording devices as provided for by any other provision of law.

§ 9021. Prohibited solicitations on school premises

During school hours, and within one hour before the time of opening and within one hour after the time of closing of school, pupils of the public school shall not be solicited on school premises by teachers or others to subscribe or contribute to the funds of, or become members of, or to work for, any organization not directly under the control of the school authorities, unless the organization is a nonpartisan, charitable organization organized for charitable purposes by an act of Congress or under the laws of the state, the purpose of the solicitation is nonpartisan and charitable, and the solicitation has been approved by the county board of education or by the governing board of the school district in which the school is located.

Nothing in this section shall be construed as prohibiting the solicitation of pupils of the public school on school premises by pupils of that school for any otherwise lawful purpose.

§9031. Prohibition and definition. No teacher giving instruction in any school, or on any property belonging to any agencies included in the public school system, shall advocate or teach communism with the intent to indoctrinate or to inculcate in the mind of any pupil a preference for communism.

In prohibiting the advocacy or teaching of communism with the intent of indoctrinating or inculcating a preference in the mind of any pupil for such doctrine, the Legislature does not intend to prevent the teaching of the facts about communism. Rather, the Legislature intends to prevent the advocacy of, or inculcation and indoctrination into, communism as is hereinafter defined, for the purpose of undermining patriotism for, and the belief in, the government of the United States and of this state.

For the purposes of this section, communism is a political theory that the presently existing form of government of the United States or of this state should be changed, by force, violence, or other unconstitutional means, to a totalitarian dictatorship which is based on the principles of communism as expounded by Marx, Lenin, and Stalin.

§ 10552. Habits and disease

The governing body of any school district may exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases.

§ 10553. Disability inimical to welfare of other pupils

The governing board of the school may exclude from attendance on regular school classes any child whose physical or mental disability is such as to cause his attendance to be inimical to the welfare of other pupils.

§ 10601. Suspension by teacher

A teacher may suspend, for good cause, any pupil from his or her class for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal for appropriate action. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

§10601.5. Suspension by principal

The principal of a school may suspend, for good cause, any pupil from the school, subject to the provisions of Sections 10607, 10607.5, and 10607.8. The principal shall report the suspension of such a pupil to the governing board of the school district or to the district superintendent in accordance with the regulations of the governing board.

Any suspension pursuant to this section shall not exceed five schooldays.

§10601.6. ["Good cause"]

As used in Sections 10601 and 10601.5, "good cause" includes those offenses enumerated in Section 10602, but is not limited to those offenses. Any suspension pursuant to this section shall not exceed five schooldays.

§10602. Continued willful disobedience, habitual profanity or vulgarity, open and persistent defiance of the authority of the school personnel, or assault or battery upon a student, upon school premises or while under the authority of school personnel, or continued abuse of school personnel, assault or battery upon school personnel, or any threat of force or violence directed toward school personnel, at any time or place shall constitute good cause for suspension or expulsion from school; however, no pupil shall be suspended or expelled unless the conduct for which he is to be disciplined is related to school activity or school attendance. (Effective 1/1/76)

§10602.5 (a) Smoking or having tobacco on school premises, or while under the authority of school personnel, constitutes good cause for the suspension or expulsion of a pupil except as provided in this section.

(b) The governing board of any school district maintaining a community college or high school may adopt rules and regulations permitting the smoking and possession of tobacco on the campus of a community college or high school or while under the authority of school personnel by pupils of the community college or high school; provided that such rules and regulations shall not permit students to smoke in any classroom or other enclosed facility which any student is required to occupy or which is customarily occupied by nonsmoking students.

(c) The governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking. (Effective 1/1/76)

§ 10603. Narcotics or Other Hallucinogenic Drugs

(a) For the protection of other pupils in the public school, the governing board of any school district may suspend, or expel, and the superintendent or a principal of any school district when previously authorized by the governing board may suspend, a pupil whenever it is established to the satisfaction of the board or the superintendent or principal, respectively, that the pupil has on school premises or elsewhere used, sold, or been in possession of narcotics or other hallucinogenic drugs or substances, or has inhaled or breathed fumes of, or ingested, any poison classified as such by Schedule "D" in Section 4160 of the Business and Professions Code.

(b) Every sheriff or chief of police who arrests a minor of complusory school attendance age or any pupil currently enrolled in a public school through grade 12 for using, selling, or possessing narcotics or other hallucinogenic drugs or substances, or for having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code, when a petition is requested in juvenile court or a complaint filed in any court alleging that such minor is a person using, selling, or possessing narcotics or other hallucinogenic drugs or substances, or for having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code, shall without unnecessary delay give written notice to the superintendent of the school district of attendance.

(c) In any event where a sheriff or chief of police arrests a minor of compulsory school attendance age or any pupil currently enrolled in a public school through grade 12 for using, selling or possessing narcotics or other hallucinogenic drugs or substances, or for having inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code and later releases such minor without filing a petition request with the juvenile court or a complaint in any court, the sheriff or chief of police may give written notice thereof to the superintendent of the school district of attendance if the sheriff or chief of police believes the school district will benefit by such notification.

§ 10604. Membership in secret clubs prohibited

It is unlawful for any pupil, enrolled in any elementary or secondary school of this state, to join or become a member of any secret fraternity, sorority, or club, wholly or partly formed from the membership of pupils attending the public schools, or to take part in the organization or formation of any fraternity, sorority, or secret club. Nothing in this section shall be construed to prevent any pupil from joining the order of the Native Sons of the Golden West, Native Daughters of the Golden West, Foresters of America, or other kindred organizations not directly associated with the public schools of the state.

§ 10604.3. Suspension and expulsion

Any governing board may enforce the provisions of Section 1052 by suspending, or, if necessary, expelling a pupil in any elementary or secondary school who refuses or neglects to obey any rules prescribed pursuant to that section.

§ 10605. Misconduct

The governing board of any school district shall suspend or expel pupils for misconduct when other means of correction fail to bring about proper conduct.

§ 10605.5. Notification of law enforcement authorities if student commits assault with deadly weapon

The chief administrative employee at a school shall, prior to the suspension or expulsion of any pupil, notify the appropriate law enforcement authorities of the county or city in which the school is situated, of any acts of the student which may be violative of Section 245 of the Penal Code.

§ 10606. Willful misconduct: liabilities--rewards

Any minor whose willful misconduct results in injury or death to any student or any person employed by or performing volunteer services for a school district or who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district is liable to suspension or expulsion, and the parent or guardian of an unemancipated minor shall be liable for all damages so caused by the minor. The liability of the parent or guardian shall not exceed two thousand dollars ($2,000). The parent or guardian shall also be liable for the amount of any reward not exceeding two thousand dollars ($2,000) paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a minor shall be liable to a school district for all property belonging to the school district loaned to the minor and not returned upon demand of an employee of the district authorized to make the demand.

§ 10607. Duration of suspension

No pupil shall be suspended from an elementary school for more than two consecutive weeks.

No pupil shall be suspended from a secondary school for more than the duration of the current semester. For secondary schools not operated on the basis of a school term regularly divided into semesters, the governing board shall select a date approximating the midpoint of the term for purposes of the preceding sentence. All summer school sessions maintained at a secondary school shall, for purposes of this paragraph, be deemed to constitute a single semester.

On or before the third consecutive school day of any given period of suspension, the parent or guardian of the pupil involved shall be asked to attend a meeting with school officials, at which time the causes, the duration, the school policy involved, and other matters pertinent to the suspension, shall be discussed. If the parent or guardian fails to join in such a conference, the school officials shall send him by mail a letter stating the fact that suspension has been implemented and setting forth all other data pertinent to the action.

§ 10607.5. Limitations on suspension

Notwithstanding the provisions of Section 10607, no student shall be suspended from school for more than 20 days in a school year except he shall first be transferred to and enrolled in one other regular school for adjustment purposes, an opportunity class in his school of residence, an opportunity school or class, or a continuation education school or class.

In the case of transfer to another regular school for adjustment purposes, additional days of suspension are limited to 10.

In a case where an action is pending in juvenile court in regard to a student, or where expulsion is being processed by the governing board, a superintendent, or other person designated by him in writing, may extend the suspension until such time as the juvenile court or the governing board has rendered a decision in the action.

§10607.8. [Notification to parent or guardian of suspension] Whenever a pupil is suspended from school, the parent or guardian shall be notified of such action. Any notification to a pupil's parent or guardian concerning the suspension of the pupil shall be signed by the school principal or his designee.

§10608. Expulsion appeals to County Board. If a pupil is expelled from school, the parent or guardian of the pupil may appeal to the county board of education which shall hold a hearing thereon and render its decision. The county board of education shall notify the governing board of the time and place of such hearing and either the governing board or its appointed designee may appear and present testimony at such hearing. The decision of the county board of education shall be final and binding upon the parent or guardian and the governing board expelling the pupil.

§ 10609. Duties of pupils

All pupils shall comply with the regulations, pursue the required course of study, and submit to the authority of the teachers of the schools.

§ 10611. [Students' right to exercise free expression; Regulations]

Students of the public schools have the right to exercise free expression including, but not limited to, the use of bulletin board, the distribution of printed materials or petitions, and the wearing of buttons, badges, and other insignia, except that expression which is obscene, libelous, or slanderous according to current legal standards, or which so incites students as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school, shall be prohibited.

Each governing board of a school district and each county superintendent of schools shall adopt rules and regulations relating to the exercise of free expression by students upon the premises of each school within their respective jurisdictions, which shall include reasonable provisions for the time, place, and manner of conducting such activities.

§ 10751. Limitations on access to records

No teacher, principal, employee, or governing board member of any public, private, or parochial school providing instruction in any of grades kindergarten through 12 shall permit access to any written records concerning any particular pupil enrolled in the school in any class to any person except under judicial process unless the person is one of the following:

(a) Either parent or a guardian of such pupil. Such parent or guardian shall have access to all written records relating to his child or ward maintained by the school, and need only appear in person during regular hours of the schoolday and request to see such records. No written material concerning his child or ward shall be edited or withheld, and the parent or guardian shall be entitled to read such material personally.

(b) A person designated, in writing, by such pupil if he is an adult, or by either parent or a guardian of such pupil if he is a minor.

(c) An officer or employee of a public, private, or parochial school where the pupil attends, has attended, or intends to enroll.

(d) A state or local law enforcement officer, including a probation officer, parole officer or administrator, or a member of a parole board, seeking information in the course of his duties.

(e) The State Superintendent of Public Instruction, or a member of his staff, or the county superintendent of schools of the county where the pupil attends, has attended, or intends to enroll, or a member of his staff.

(f) An officer or employee of a county agency responsible for protective services to children, as to a pupil referred to that agency as a minor requiring investigation or supervision by that agency.

(g) An officer or employee of any adoption agency licensed by the Department of Social Welfare, as to a minor placed with or under the supervision of that agency, or another minor from the same family as such minor, or as to children in families for which an investigation by the agency is required under Section 226.6 of the Civil Code.

(h) A member of a hearing panel convened pursuant to Section 10761.

The restrictions imposed by this section are not intended to interfere with the giving of information by school personnel concerning participation in athletics and other school activities, the winning of scholastic or other honors and awards, and other like information. Notwithstanding the restrictions imposed by this section, a governing board may, in its discretion, provide information to the staff of a college, university, or educational research and development organization or laboratory if such information is necessary to a research project or study conducted, sponsored, or approved by the college, university, or educational research and development organization or laboratory and if no pupil will be identified by name in the information submitted for research. Notwithstanding the restrictions imposed by this section, an employer or potential employer of the pupil may be furnished the age and scholastic record of the pupil and employment recommendations prepared by members of the school staff.

Notwithstanding the restrictions imposed by this section, the names and addresses of pupils, the record of a pupil's daily attendance, the pupil's scholastic record in the form of grades received in school subjects, the names of a pupil's parents or guardian, a pupil's date and place of birth, and the names and addresses of other schools a pupil has attended may be released to an officer or employee of the United States seeking this information in the course of his duties, when the pupil is a veteran of military service with the United States, or an orphan or dependent of such veteran, or an alien. Notwithstanding the restrictions imposed by this section, school personnel of a public, private, or parochial high school may furnish the names and addresses of graduating seniors to elected federal, state, county, or district officials, or to a commissioned officer, or his designee, in charge of recruitment for the National Guard or an active or reserve component of the armed forces, as defined pursuant to Section 18540 of the Government Code, seeking information in the course of his recruitment duties.

§10751.5. Information to Private Schools and Colleges: Misdemeanor. Notwithstanding Section 10751, the superintendent, principal, or governing board or any public, private, or parochial school providing instruction in kindergarten or any of grades 1 to 12, inclusive, may permit the furnishing, or may furnish, the names and addresses of pupils presently enrolled in grade 12, or pupils who have terminated their enrollment prior to graduation to any official of a private business or professional school or college approved, authorized, or certified pursuant to the provisions of Division 21 (commencing with Section 29001). No private business or professional school or college,as provided for in this section, shall use such information for other than purposes directly related to their own solicitation activities. Any violation of this provision is a misdemeanor, punishable by a fine of not to exceed two thousand five hundred dollars ($2,500), and, in addition the privilege of the school or college to receive the lists shall be suspended for a period of two years from the time of discovery of the misuse of such lists.

§10754. Copy of record submitted in lieu of appearance in response to subpoena. The service of a subpoena upon a public school employee solely for the purpose of causing him to produce a school record pertaining to any pupil may be complied with by such employee, in lieu of a personal appearance as a witness in the proceeding, by submitting to the court or other agency issuing the subpoena, at the time and place required by the subpoena, a copy of such record, accompanied by an affidavit certifying that such copy is a true copy of the original record on file in the school or school office. The copy of the record shall be in the form of a photostat, microfilm, microcard, or miniature photograph or other photographic copy or reproduction, or an enlargement thereof.

§ 10757. Inspection of pupil records

A parent or legal guardian shall be permitted to inspect the written records concerning his child or ward in any reasonable manner in consultation with a certificated employee of the district when he requests to do so during regular hours of the schoolday. If the child's parents or legal guardians are divorced or separated, only the parent, guardian, or other person having lawful custody of the child shall be permitted to inspect the written records of the child pursuant to this section.

§ 10758. Written information on academic performance

The governing board of any school district shall give to each pupil's natural parent or legal guardian, upon written request, the same written information concerning academic performance that is given to the parent or guardian having custody of the pupil. For the purpose of obtaining written information concerning academic performance without inspection of the written records by the parent or guardian, the provisions of this section shall control over Section 10757.

§ 10759. Pupil's progress

The governing board of each school district shall prescribe regulations requiring the evaluation of each pupil's achievement for each marking period and requiring a conference with, or a written report to, the parent or guardian of each pupil whenever it becomes evident to the teacher that the pupil is in danger of failing a course. The refusal of the parent or guardian to attend the conference, or to respond to the written report, shall not preclude failing the pupil at the end of the grading period.

§ 10760. Written request for removal of information

(a) The parent or guardian of a pupil may file a written request with the superintendent of the district to remove any information recorded in the written records concerning his child or ward which he alleges to be: (1) inaccurate; (2) an unsubstantiated personal conclusion or inference; (3) a conclusion or inference outside of the observer's area of competence; or (4) not based on the personal observation of a named person with the time and place of the observation noted.

(b) Within 30 days of receipt of such request, the superintendent shall meet with the parent or guardian and the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the school district. The superintendent shall then sustain or deny the allegations.

If the superintendent sustains the allegations, he shall order the removal of the information.

If the superintendent denies the allegations and refuses to order the removal of the information, the parent or guardian may, within 30 days of the refusal, appeal the decision in writing to the governing board of the school district.

(c) Within 30 days of receipt of such an appeal, the governing board shall, in closed session with the parent or guardian and the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the school district, determine whether or not to sustain or deny the allegations.

If the governing board sustains the allegations, it shall order the superintendent to immediately remove the information from the written records of the pupil.

The decision of the governing board shall be final.

Records of these administrative proceedings shall be maintained in a confidential manner and shall be destroyed one year after the decision of the governing board, unless the parent or guardian initiates legal proceedings relative to the disputed information within the prescribed period.

(d) If the final decision of the governing board is unfavorable to the parent or guardian, or if the parent or guardian accepts an unfavorable decision by the district superintendent, the parent or guardian shall then have the right to submit a written statement of his objections to the information. This statement shall become a part of the pupil's school record until such time as the information objected to is removed.

§ 10761. Hearing on request to remove information

(a) To assist in making determinations pursuant to Section 10760, a district superintendent or governing board may convene a hearing panel composed of the following persons:

(1) The principal of a school other than the school at which the record is on file.

(2) A certificated employee appointed by the chairman of the certificated employee council of the district, or, if no such council exists, a certificated employee appointed by the parent or guardian.

(3) A parent appointed by the superintendent or by the governing board of the district, depending upon who convenes the panel.

(b) The persons appointed pursuant to paragraphs (2) and (3) of subdivision (a) shall, if possible, not be acquainted with the pupil, his parent or guardian, or the certificated employee who recorded the information, except when the parent or guardian appoints the person pursuant to paragraph (2).

(c) The principal appointed to the hearing panel shall serve as its chairman.

(d) The hearing panel shall, in closed session, hear the objections to the information of the parent or guardian and the testimony of the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the school district.

The hearing panel shall be provided with verbatim copies of the information which is the subject of the controversy.

A written finding shall be made setting forth the facts and decisions of the panel, and such findings shall be forwarded to the superintendent or the governing board, depending upon who convened the panel.

The proceedings of the hearing shall not be disclosed or discussed by panel members except in their official capacities.

10851. "Hazing" defined

As used in this article, "hazing" includes any method of initiation into a student organization or any pastime or amusement engaged in with respect to such an organization which causes, or is likely to cause, bodily danger or physical harm to any student or other person attending any school, college, university or other educational institution in this State; but the term "hazing" does not include customary athletic events or other similar contests or competitions.

10852. Hazing prohibited

No student, or other person in attendance at any public, private, parochial, or military school, college, or other educational institution shall conspire to engage in hazing, participate in hazing, or commit any act that injures, degrades, or disgraces, or tends to injure, degrade, or disgrace any fellow student or person attending the institution.

The violation of this section is a misdemeanor, punishable by a fine of not less than fifty dollars ($50), nor more than five hundred dollars ($500), or imprisonment in the county jail for not more than six months, or both.

10853. Penalty for hazing

Any person who participates in the hazing of another, or any corporation or association which knowingly permits hazing to be conducted by its members or by others subject to its direction or control, shall forfeit any entitlement to public funds, scholarships or awards which are enjoyed by him or by it and shall be deprived of any sanction or approval granted by any public educational institution or agency.

The governing board of any public school, public college, public university or other public educational institution or agency may adopt rules and regulations to implement this section.

If he has reason to believe that a forfeiture should be declared under this section, the Attorney General or the district attorney of any county or city and county may institute a special proceeding in the superior court to establish such forfeiture. Any funds so forfeited shall be deposited in the State Treasury and credited to the State School Fund.

§10854. Administration of punishment to pupils

The governing board of any school district shall adopt rules and regulations authorizing teachers, principals, and other certificated personnel to administer reasonable corporal or other punishment to pupils when such action is deemed an appropriate corrective measure except as provided in Section 10855.

§10855. Corporal punishment of certain pupils prohibited

No corporal punishment shall be administered to an educationally handicapped pupil, a physically handicapped pupil, or a mentally retarded pupil, as defined pursuant to Section 6750, 6802, 6880.2, 6902, or 6903, enrolled in special education classes, without the prior written consent of the pupil's parent or guardian.

§10901. Personal beliefs

No test, questionnaire, survey, or examination containing any questions about the pupil's personal beliefs or practices in sex, family life, morality and religion, or any questions about his parents', or guardians' beliefs and practices in sex, family life, morality and religion, shall be administered to any pupil in kindergarten or grade 1 through grade 12, inclusive, unless the parent or guardian of the pupil is notified in writing that such test, questionnaire, survey, or examination is to be administered and the parent or guardian of the pupil gives written permission for the pupil to take such test, questionnaire, survey, or examination.

§11902. Legislative Intent

It is the intent of this article to establish an ongoing program to assure that the nutritional requirements of pupils in receipt of public assistance are enhanced by a pervasive program of food supplementation while they are attending school.

It is the intent of the Legislature that the program established by this article shall in fiscal years subsequent to the year in which this article is enacted be funded according to customary budgetary procedures.

§12101. Children between ages of 6 and 16 years

Each person between the ages of 6 and 16 years not exempted under the provisions of this chapter is subject to compulsory full-time education. Each person subject to compulsory full-time education and each person subject to compulsory continuation education not exempted under the provisions of Chapter 7 (commencing at Section 12551) shall attend the public full-time day school or continuation school or classes for the full time for which the public schools of the city, city and county, or school district in which the pupil lives are in session and each parent, guardian, or other person having control or charge of such pupil shall send the pupil to the public full-time day school or continuation school or classes for the full time for which the public schools of the city, city and county, or school district in which the pupil lives are in session.

§12154. Attendance in private school. Children who are being instructed in a private full-time day school by persons capable of teaching shall be exempted. Such school shall, except under the circumstances described in Section 71, be taught in the English language and shall offer instruction in the several branches of study required to be taught in the public schools of the state. The attendance of the pupils shall be kept by private school authorities in a register, and the record of attendance shall indicate clearly every absence of the pupil from school for a half day or more during each day that school is maintained during the year.

Exemptions under this section shall be valid only after verification by the attendance supervisor of the district, or other person designated by the board of education, that the private school has complied with the provisions of Section 29009.5 of the Education Code requiring the annual filing by the owner or other head of a private school of an affidavit or statement of prescribed information with the Superintendent of Public Instruction. The verification required by this section shall not be construed as an evaluation, recognition, approval, or endorsement of any private school or course.

§ 12401. Definition

Any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without valid excuse more than three days or tardy in excess of 30 minutes on each of more than three days in one school year is a truant and shall be reported to the attendance supervisor or to the superintendent of the school district.

§ 12402. Subsequent report of truancy

Any pupil who has once been reported as a truant and who is again absent from school without valid excuse one or more days, or tardy on one or more days, shall again be reported as a truant to the attendance supervisor or the superintendent of the district.

§ 12403. Habitual truant

Any pupil is deemed an habitual truant who has been reported as a truant three or more times.

§ 12408. Filing of complaint against truant or disorderly pupil

Any pupil who has once been adjudged an habitual truant or habitually insubordinate or disorderly during attendance at school by the juvenile court of the county, who is reported as a truant from school one or more days or tardy on one or more days without valid excuse, in the same school year or in a succeeding year, or habitually insubordinate or disorderly during attendance at school, shall be brought to the attention of the pupil's probation or parole officer.

§ 12454. Penalties against parents

Any parent, guardian, or other person having control or charge of any pupil who fails to comply with the provision of this chapter, unless excused or exempted therefrom, is guilty of a misdemeanor, and shall be punished as follows:

(1) Upon a first conviction, by a fine of not more than twenty-five dollars ($25) or by imprisonment in the county jail for a period of not more than five days.

(2) Upon a second or subsequent conviction, by a fine of not less than twenty-five dollars ($25) or more than two hundred fifty dollars ($250), by imprisonment in the county jail for a period of not less than five days or more than 25 days, or by both such fine and imprisonment.

§ 12551. Attendance upon special classes

All persons 16 years of age or older and under 18 years of age, not otherwise exempted by this chapter, shall attend upon special continuation education classes maintained by the governing board of the high school district in which they reside, or by the governing board of a neighboring high school district, for not less than four 60-minute hours per week for the regularly established annual school term. Such minimum attendance requirement of four 60-minute hours per week may be satisfied by any combination of attendance upon special continuation education classes and regional occupational centers or programs.

§ 12756. Penalties against parent

Any parent, guardian, or other person having control or charge of any minor subject to this chapter who fails to perform any of the duties imposed upon him by the provisions of Section 12751 is guilty of a misdemeanor, and shall be punished as follows:

(1) Upon a first conviction, by a fine of not more than twenty-five dollars ($25) or by imprisonment in the county jail for a period of not more than five days.

(2) Upon a second or subsequent conviction, by a fine of not less than twenty-five dollars ($25) or more than two hundred fifty dollars ($250), by imprisonment in the county jail for a period of not less than five days or more than 25 days, or by both such fine and imprisonment.

§ 12916. Report of assault by pupil against school employee; Failure a misdemeanor

(a) Whenever any employee of a school district or of the office of a county superintendent of schools is attacked, assaulted, or menaced, by any pupil, it shall be the duty of such employee, and the duty of any person under whose direction or supervision such employee is employed in the public school system who has knowledge of such incident, to promptly report the same to the appropriate law enforcement authorities of the county or city in which the same occurred. Failure to make such report shall be a misdemeanor punishable by a fine of not more than two hundred dollars ($200).

(b) An act by any member of the governing board of a school board district, a county superintendent of schools, or any employee of any school district or the office of any county superintendent of schools, which is designed directly or indirectly to influence or urge a person under a duty to make the report prescribed by subdivision (a) not to make such report, shall be a misdemeanor, and shall be punishable by a fine of not less than one hundred dollars ($100) or more than two hundred dollars ($200).

§12957. Cause for suspension and dismissal. It shall be sufficient cause for the suspension and dismissal, in the manner provided by law, of any employee of a school district when such employee is knowingly a member of the Communist Party.

§ 13001. Failure to make reports

Any principal, teacher, employee, or school officer of any elementary or secondary school who refuses or wilfully neglects to make such reports as are required by law is guilty of a misdemeanor and is punishable by a fine of not more than one hundred dollars ($100).

§ 13001.5 Certain materials in personnel files available for employee inspection

Materials in personnel files of employees which may serve as a basis for affecting the status of their employment are to be made available for the inspection of the person involved.

Such material is not to include ratings, reports, or records which (1) were obtained prior to the employment of the person involved, (2) were prepared by identifiable examination committee members, or (3) were obtained in connection with a promotional examination.

Every employee shall have the right to inspect such materials upon request, provided that the request is made at a time when such person is not actually required to render services to the employing district.

Information of a derogatory nature, except material mentioned in the second paragraph of this section, shall not be entered or filed unless and until the employee is given notice and an opportunity to review and comment thereon. An employee shall have the right to enter, and have attached to any such derogatory statement, his own comments thereon. Such review shall take place during normal business hours, and the employee shall be released from duty for this purpose without salary reduction.

§ 13002. Payment of expenses; advance of funds; direction of travel by governing board

The governing board of any school district shall provide for the payment of the actual and necessary expenses, including traveling expenses, of any employee of the district incurred in the course of performing services for the district, whether within or outside the district, under the direction of the governing board. The board may authorize an advance of funds to cover such necessary expense. Such advance shall be repaid or adjusted upon filing of a regular claim for the actual and necessary expenses incurred. The governing board may direct any employee of the district to attend any convention or conference or to visit schools for the discussion or observation of any school matter appertaining to the duties of the employee or any question of interest to the school district.

In implementing this section, a governing board of any school district may, by rule or regulation, delegate to the district superintendent the authority to perform all powers described in this section; provided, that funds expended pursuant to such delegation shall not exceed the amount previously budgeted for such purposes by the governing board.

§ 13004. Political activities

Neither any local legislative body nor any school district governing board shall enact or enforce any ordinance or promulgate or enforce any rule or regulation which limits, during their off-duty hours, the participation of school employees in political activities not prohibited by this code.

§ 13008. Unlawful to discriminate solely because of employee's appearance before certain boards or committees

It shall be unlawful for any person authorized to invoke disciplinary action against any employee of a school district or employee in the office of the county superintendent of schools either in his individual capacity or as a member of any board, to invoke or attempt to invoke disciplinary action against any such employee or to discriminate against such employee in the terms, conditions and privileges of employment solely because of the employee's appearance before the governing board of a school district, the county board of education, legislative committees, or any other duly constituted governmental board, commission or council, whether such appearance was undertaken voluntarily or otherwise.

Violation of the provisions of this section shall be a misdemeanor.

§ 13013. [Notification to parent, guardian, etc., on release of pupil to peace officer]

When a principal or other school official releases a minor pupil of such school to a peace officer for the purpose of removing the minor from the school premises, such school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to such officer, and regarding the place to which the minor is reportedly being taken.

§ 13128. Authorization for teaching credentials; kinds

Authorization for teaching credentials shall be of four basic kinds, as defined below:

(a) "Single subject instruction" means the practice of assignment of teachers and students to specified subject matter courses, as is commonly practiced in California high schools and most California junior high schools.

(b) "Multiple subject instruction" means the practice of assignment of teachers and students for multiple subject matter instruction, as is commonly practiced in California elementary schools and as is commonly practiced in early childhood education.

(c) "Specialist instruction" means any specialty requiring advanced preparation or special competence including but not limited to, reading specialist, mathematics specialist, specialist in special education, or early childhood education, and such other specialities as the commission may determine.

(d) "Designated subjects" means the practice of assignment of teachers and students to designated technical, trade, or vocational courses which courses may be part of a program of trade, technical, or vocational education.

§13264. General provisions concerning order of employment. The following general provisions shall apply regardless of date of employment:

The order once determined by lot shall be permanent, and shall be entered on the permanent records of the district.

Records showing date of employment, whether kept by the district or by the county, shall be accessible, on demand, to any certificated employee of the district or to his designated representative.

In the absence of records as to any of the matters referred to in the two preceding sections, the board, in accordance with evidence presented shall determine the order of employment after giving employees a reasonable opportunity to present such evidence.

The governing board of every community college district shall establish the order of employment of all probationary and permanent employees of the district in the manner prescribed by Sections 13252 to 13273, inclusive, and shall keep a roster of same as a public record.

Whether or not such a roster is kept in other districts, the order of employment in all districts, when required, shall be determined as prescribed by Sections 13252 to 13273, inclusive.

The board shall have power and it shall be its duty to correct any errors discovered from time to time in its records showing the order of employment.

§ 13368. Attendance of teachers

Every teacher employed in the schools of the county, city and county, or city school district holding an institute shall attend the institute and participate in its proceedings.

§ 13369. Payment of salaries and traveling expenses for attending institute

Every teacher shall be paid his regular salary for the time covered by his attendance upon an institute. He shall also receive his actual and necessary traveling expenses incurred in attending the institute, not exceeding twenty-five cents ($0.25) a mile, excluding the first six miles, one way from the place of his employment to the place of the institute or thirty-five dollars ($35), whichever is the lesser amount. Claims for traveling expenses are payable from the same fund as teachers' salaries upon verification and approval by the county superintendent of schools. When the institute is held during the time that teachers are employed in teaching, their pay shall not be diminished by reason of their attendance.

§13403. Grounds for dismissal of permanent employee. No permanent employee shall be dismissed except for one or more of the following causes:

(a) Immoral or unprofessional conduct.

(b) Commission, aiding, or advocating the commission of acts of criminal syndicalism, as prohibited by Chapter 188, Statutes of 1919, or in any amendment thereof.

(c) Dishonesty.

(d) Incompetency.

(e) Evident unfitness for service.

(f) Physical or mental condition unfitting him to instruct or associate with children.

(g) Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by the State Board of Education or by the governing board of the school district employing him.

(h) Conviction of a felony or of any crime involving moral turpitude.

(i) Violation of Section 9031 of this code or conduct specified in Section 1028 of the Government Code, added by Chapter 1418 of the Statutes of 1947.

(j) Violation of any provision in Section 12952 to 12958, inclusive, of this code.

(k) Knowing membership by the employee in the Communist Party.

§ 13404. Charges and notice of intention to discharge employee

Upon the filing of written charges, duly signed and verified by the person filing them, with the governing board of the school district, or upon a written statement of charges formulated by the governing board, charging that there exists cause for the dismissal of a permanent employee of the district, the governing board may, upon majority vote, except as provided in this article if it deems the action necessary, give notice to the permanent employee of its intention to dismiss him at the expiration of 30 days from the date of service of the notice, unless the employee demands a hearing as provided in this article.

Any written statement of charges of unprofessional conduct or incompetency shall specify instances of behavior and the acts or omissions constituting the charge so that the teacher will be able to prepare his defense. It shall, where applicable, state the statutes and rules which the teacher is alleged to have violated, but it shall also set forth the facts relevant to each occasion of alleged unprofessional conduct or incompetency.

§ 13405. Notice and copy of charges against permanent employee

The notice shall not be given between May 15th and September 15th in any year. It shall be in writing and be served upon the employee personally or by United States registered mail addressed to him at his last known address. A copy of the charges filed, together with a copy of the provisions of this article, shall be attached to the notice.

§ 13407. Action on charges; prior notice to permanent employee

The governing board of any school district shall not act upon any charges of unprofessional conduct or incompetency unless during the preceding term or half school year prior to the date of the filing of the charge, and at least 90 days prior to the date of the filing, the board or its authorized representative has given the employee against whom the charge is filed, written notice of the unprofessional conduct or incompetency, specifying the nature thereof with such specific instances of behavior and with such particularity as to furnish the employee an opportunity to correct his faults and overcome the grounds for such charge. The written notice shall include the evaluation made pursuant to Article 5.5 (commencing with Section 13485) of this chapter, if applicable to the employee. "Unprofessional conduct" and "incompetency" as used in this section means, and refers only to, the unprofessional conduct and incompetency particularly specified as a cause for dismissal in Sections 13403 and 13403.5 and does not include any other cause for dismissal specified in Section 13403.

§ 13501. Female teachers

Females employed as teachers in the public schools of the State shall, in all cases, receive the same compensation as is allowed male teachers for like services, when holding the same grade certificates.

§ 13552. Effect of active military service on status of employees

Every person employed by a school district as a probationary or permanent employee in a position requiring certification qualifications who enters the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of, or to, any branch of such military service, created or authorized as such auxiliary by the Congress of the United States of America or by the Legislature of the State of California, or in the service of the United States Merchant Marine, or in full-time paid service of the American Red Cross, during any period of national emergency declared by the President of the United States of America or during any war in which the United States of America is engaged, shall be entitled to absent himself from his duties as an employee of the district.

Such absence shall not affect in any way the classification of such employee. In the case of a probationary employee, the period of such absence shall not count as part of the service required as a condition precedent to the classification of such employee as a permanent employee of the district, but such absence shall not be construed as a break in the continuity of the service of such employee for any purpose.

The dismissal or termination of any probationary employee because of reduced attendance due to war conditions, after his entry into the active military service or service in the American Red Cross, shall not deprive him of any of the benefits of this section.

Within six months after such employee honorably leaves such service or has been placed on inactive duty he shall, subject to the provisions of this section, be entitled to return to the position held by him at the time of his entrance into such service, at the salary to which he would have been entitled had he not absented himself from the service of the school district under this section.

If such employee was employed under a lawful contract for a period in excess of one year in a position in which he had not become a permanent employee of the district, he shall be entitled to return to such position for the period his contract of employment had to run at the time he entered such service. Notwithstanding any provision of this code to the contrary, a person employed to take the place of any such employee shall not have any right to such position following the return of such employee to the position.

§ 13556. Enforcement of course of studies, use of textbooks, rules and regulations

Every teacher in the public schools shall enforce the course of study, the use of legally authorized textbooks, and the rules and regulations prescribed for schools.

§ 13556.5. Duty concerning instruction of pupils concerning morals, manners, and citizenship

Each teacher shall endeavor to impress upon the minds of the pupils the principles of morality, truth, justice, patriotism, and a true comprehension of the rights, duties and dignity of American citizenship, including kindness toward domestic pets and the humane treatment of living creatures, to teach them to avoid idleness, profanity, and falsehood, and to instruct them in manners and morals and the principles of a free government.

§ 13557. Duty concerning conduct of pupils; Limitation on criminal prosecution

Every teacher in the public schools shall hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess. A teacher, vice principal, principal, or any other certificated employee of a school district shall not be subject to criminal prosecution or criminal penalties for the exercise, during the performance of his duties, of the same degree of physical control over a pupil that a parent would be legally privileged to exercise but which in no event shall exceed the amount of physical control reasonable necessary to maintain order, protect property, or protect the health and safety of pupils, or to maintain proper and appropriate conditions conducive to learning. The provisions of this section are in addition to and do not supersede the provisions of Section 10854 of this code.

§ 13558. School register

(a) A state school register shall be kept by every teacher in the public elementary schools, except a teacher in:

(1) A school in which the state school register of each teacher is kept on behalf of the teacher in a central office by an employee of the school district.

(2) A school in which a central file of individual records of pupil enrollment, absence, and attendance is maintained on forms containing at least the minimum items of information prescribed by the State Department of Education, and whose principal submits periodic reports of pupil personnel data to the city or district superintendent of schools, or, if no superintendent is employed in the district, to the county superintendent of schools on forms approved by the State Department of Education.

(b) There shall be recorded in each state school register the absence and attendance of each pupil enrolled in the classes taught by the teacher keeping the register or on whose behalf the register is kept and any additional information required by the State Department of Education.

§ 13558.5 Willful interference with classroom conduct

Every minor over 16 years of age or adult who is not a pupil of the school, including but not limited to any such minor or adult who is the parent or guardian of a pupil of the school, who comes upon any school ground or into any schoolhouse and there willfully interferes with the discipline, good order, lawful conduct, or administration of any school class or activity of the school, with the intent to disrupt, obstruct, or to inflict damage to property or bodily injury upon any person, is guilty of a misdemeanor, and is punishable by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500), or by imprisonment in the county jail for not more than six months, or both.

§ 13559. Upbraiding, insulting, and abusing teachers

Every parent, guardian, or other person who upbraids, insults, or abuses any teacher of the public schools, in the presence or hearing of a pupil, is guilty of a misdemeanor.

§ 13560. Insulting and abusing teachers

Any parent, guardian, or other person who insults or abuses any teacher in the presence of other school personnel or pupils and at a place which is on school premises or public sidewalks, streets, or other public ways adjacent to school premises or at some other place if the teacher is required to be at such other place in connection with assigned school activities is guilty of a misdemeanor, and is punishable by a fine of not less than fifty dollars ($50) nor exceeding five hundred dollars ($500).

§ 13561. Teachers' lunch periods

The governing board of every school district shall allow each teacher employed for full time in any regular day school in which two or more teachers are employed, one duty-free lunch period each day in the manner and at the time prescribed by regulation of the State Board of Education.

The State Board of Education shall adopt rules and regulations fixing the duration of the duty-free lunch period of certificated employees of school districts, the time of day when the lunch period shall be granted, and prescribing the conditions under which the duty-free lunch period shall be allowed.

§13599.5. Information concerning pupils. Notwithstanding the provisions of Section 10751, no instructional aide shall give out any personal information concerning any pupil who is not his own child or ward, except under judicial process, to any person other than a teacher or administrator in the school which the pupil attends. A violation of this section may be a cause for disciplinary action, including dismissal.

§13749. Powers of commission in conducting hearings, and inspecting records of governing board. The commission may conduct hearings, subpena witnesses, require the production of records or information pertinent to investigation, and may administer oaths. It may, at will, inspect any records of the governing board that may be necessary to satisfy itself that the procedures prescribed by the commission have been complied with. Hearings may be held by the commission on any subject to which its authority may extend as described in this article (commencing at Section 13701).

§13752. No discrimination for political acts, opinions, or affiliations; limitation on political activities. No person who is in the classified service or who is upon any eligibility list shall be appointed, demoted, or removed, or in any way discriminated against because of his political acts, opinions, or affiliations. No person in the classified service shall engage in political activities during his assigned hours of employment.

§13753. Solicitation of political assessment, contribution or service by governing board prohibited. No member of the governing board in any district in which the procedure has been adopted shall directly or indirectly solicit or be concerned in soliciting any assessment, contribution, or political service of any kind whatsoever for any political purpose from any person who is in the classified service or who is upon any eligibility list.

§13754. No coercion for political purpose by officer or employee of governing board.

No officer or employee of any governing board of any district in which the procedure has been adopted shall directly or indirectly coerce or attempt to coerce or in any way bring pressure or attempt to bring pressure upon any other such officer or employee, to support or refrain from supporting any political group for any political purpose whatever.

§13892. Data filed by member or beneficiary; confidentiality.

Data filed by any member or beneficiary with the board is confidential. No official or employee who has access to the individual records shall divulge any information concerning such records to any person other than the member to whom the information relates or his authorized representative, the governing board of the school district or agency by which he is employed, or any state department or agency. They shall be used by the board for the sole purpose of carrying into effect the provisions of this chapter.

The information is not open to inspection by anyone except the board and its officers and employees, and any person authorized by the Legislature to make inspections.

§ 15831. Establishment of a security patrol

The governing board of any school district may establish a security patrol and employ, in accordance with the provisions of Chapter 3 (commencing with Section 13580) of Division 10 such personnel as may be necessary to ensure the security of school district personnel and pupils in or about school district premises and the security of the real and personal property of the school district and to cooperate with local law enforcement agencies in all matters involving the security of the personnel, pupils, and real and personal property of the school district. It is the intention of this provision that a school district security patrol shall be supplementary to city and county law enforcement agencies and shall under no circumstances be vested with general police powers.

§ 16551. Use of school buildings and grounds by public and by religious groups

The governing board of any school district may grant the use of school buildings or grounds for public, literary, scientific, recreational, educational, or public agency meetings, or for the discussion of matters of general or public interest upon such terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this chapter (commencing at Section 16551).

The governing board of any school district may grant the use of school buildings or grounds to any church or religious organization for the conduct of religious services for temporary periods where such church or organization has no suitable meeting place for the conduct of such services upon such terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this chapter. Notwithstanding the provisions of Section 16561, the governing board shall charge the church or religious organization using such property for the conduct of religious services an amount at least sufficient to pay the cost to the district of supplies, utilities and salaries paid school district employees necessitated by such use of such property.

§ 16552. General restrictions on use

No use shall be inconsistent with the use of the buildings or grounds for school purposes, or interfere with the regular conduct of school work.

§16554.5. Use of school buildings, etc., for child care programs for preschool and elementary school children

The governing board of any school district may allow the use of school buildings, facilities, grounds, and equipment for child care or day care programs established in cooperation with any city to provide supervision and activities for children of preschool and elementary school age. The governing board may also provide such supervisory, consultant, custodial, clerical, or other services as it deems advisable with respect to the need of such program and the service to the community.

§16556. Creation of civic centers and authorization of use of other properties.

There is a civic center at each and every public school building and grounds within the state where the citizens, parent-teachers' association, Camp Fire Girls, Boy Scout troops, farmers' organizations, school-community advisory councils, senior citizens' organizations, clubs, and associations formed for recreational, educational, political, economic, artistic, or moral activities of the public school districts may engage in supervised recreational activities, and where they may meet and discuss, from time to time, as they may desire, any subjects and questions which in their judgment appertain to the educational, political, economic, artistic, and moral interests of the citizens of the communities in which they reside. Governing boards of the school districts may authorize the use, by such citizens and organizations of any other properties under their control, for supervised recreational activities.

§ 16557. Use subject to rules and regulations; interference with use for school purposes

The use of any public schoolhouse and grounds for any meeting is subject to such reasonable rules and regulations as the governing board of the district prescribes and shall in nowise interfere with the use and occupancy of the public schoolhouse and grounds, as is required for the purposes of the public schools of the State.

§ 16675. [Misdemeanor offense, and punishment therefor]

Any person who willfully disturbs any public school or any public school meeting is guilty of a misdemeanor, and shall be punished by a fine of not more than two hundred fifty dollars ($250).

§16702. Legislative Intent. It is the intent of the Legislature that in providing child development programs the Superintendent of Public Instruction will give priority to children of families who qualify under federal regulations as former, current, or potential recipients of public assistance and other low-income and disadvantaged families. Federal reimbursement shall be claimed for any child receiving services under this division for whom federal funds are available.

It is further the intent of the Legislature to maximize the Department of Education's capacity to stimulate and coordinate resources, provide technical assistance, monitor program implementation, generate maximum federal reimbursement wherever possible for the federally eligible children, and to provide alternative funding from state and local agencies for those children eligible pursuant to Sections 16729 and 16780.

§16851. "Schoolbus" defined; Qualifications of operator. A schoolbus is defined as any motor vehicle while being used for the transportation of any school pupil at or below the 12th-grade level to and from a public or private school or to and from public or private school activities, except the following:

(a) A passenger vehicle designed for and when actually carrying not more than eight persons, including the driver.

(b) A nine-passenger or 10-passenger station wagon when used for the transportation of not more than eight pupils and the driver, other than regular transportation of pupils to and from a public or private school or regular transportation of not more than eight pupils and the driver, other than regular transportation of pupils to and from a public or private school or the transportation of mentally retarded or physically handicapped pupils.

(c) A motor vehicle of any type carrying only members of the household of the owner thereof.

(d) A motor vehicle operated by a common carrier, or by and under exclusive jurisdiction of a publicly owned transit system, on scheduled runs but not used exclusively for the transportation of school pupils.

(e) A motor vehicle operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned transit system, or by a passenger charter-party carrier and used under a contractual agreement to transport pupils to and from school activities but not used regularly to transport pupils to and from a public or private school.

Notwithstanding any other provisions of this section, the governing board of a district maintaining a community college may, by resolution, designate any motor vehicle operated by or for the district, a schoolbus within the meaning of this section, while it is being used for the transportation of any community college students to and from a public community college or to and from public community college activities. The designation shall not be effective until written notification thereof has been filed with the Superintendent of Public Instruction.

§16856. Operating overloaded bus. Any officer, agent, or employee of a school district, or any other person, knowinglv operating, or permitting or directing the operation of a school bus, when it is loaded with school children in excess of the limits of its seating capacity, is guilty of a misdemeanor.

§ 28801. Malicious cutting, tearing, defacing, breaking, or injury

Any person who maliciously cuts, tears, defaces, breaks, or injures any book, map, chart, picture, engraving, statue, coin, model, apparatus, or other work of literature, art, mechanics, or object of curiosity, deposited in any public library, gallery museum, collection, fair, or exhibition, is guilty of a misdemeanor.

The parent or guardian of a minor who willfully and maliciously commits any act within the scope of this section shall be liable for all damages so caused by the minor.

§ 28802. Wilful detention of property

Any person who willfully detains any book, newspaper, magazine, pamphlet, manuscript, or other property belonging to any public or incorporated library, reading room, museum, or other educational institution, for 30 days after notice in writing to return the article or property, given after the expiration of the time for which by the rules of the institution the article or property may be kept, is guilty of a misdemeanor.

The parent or guardian of a minor who willfully and maliciously commits any act within the scope of this section shall be liable for all damages so caused by the minor.

California Government Code

§ 820. Co-extensiveness with liability of private person: Defenses

(a) Except as otherwise provided by statute (including Section 820.2), a public employee is liable for injury caused by his act or omission to the same extent as a private person.

(b) The liability of a public employee established by this part (commencing with Section 814) is subject to any defenses that would be available to the public employee if he were a private person.

§ 820.2. Exercise of discretion

Except as otherwise provided by statute, a public employee is not liable for an injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him, whether or not such discretion be abused.

§ 820.4. Non-negligent law execution or enforcement: Absence of immunity for false arrest or imprisonment

A public employee is not liable for his act or omission, exercising due care, in the execution or enforcement of any law. Nothing in this section exonerates a public employee from liability for false arrest or false imprisonment.

§ 822.2. Misrepresentation not constituting actual fraud, etc.

A public employee acting in the scope of his employment is not liable for an injury caused by his misrepresentation, whether or not such misrepresentation be negligent or intentional, unless he is guilty of actual fraud, corruption or actual malice.

§ 1028. Advocating overthrow of government cause for dismissal

It shall be sufficient cause for the dismissal of any public employee when such public employee advocates or is knowingly a member of the Communist Party or of an organization which during the time of his membership he knows advocates overthrow of the Government of the United States or of any state by force or violence.

§3201. Applicability of chapter to officers and employees of local agencies. This chapter applies to all officers and employees of a local agency. As used herein "local agency" means a county, city, city and county, political subdivision, district, or municipal corporation. For the purposes of this chapter, officers and employees of a given local agency include officers and employees of any other local agency whose principal duties consist of providing services to the given local agency. This chapter shall not apply to the employees of any school district. The right of school district employees to engage in political activities shall be determined in accordance with the provisions of the Education Code.

§6201. Stealing, removing, altering, or destroying: Offense by person not officer: Punishment. Every person not an officer referred to in Section 6200, who is guilty of any of the acts specified in that section, is punishable by imprisonment in the State prison not exceeding five years, or in a county jail not exceeding one year, or by a fine not exceeding one hundred dollars ($100), or by both such fine and imprisonment.

§6250. Legislative finding and declaration. In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

§6251. Citation of chapter. This chapter shall be known and may be cited as the California Public Records Act.

§6252. Definition of terms. As used in this chapter:

(a) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; or other local public agency.

(c) "Person" includes any natural person, corporation, partnership, firm, or association.

(d) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.

(e) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

§6253. Public records open to inspection during office hours: Right to inspect: Adoption of procedures.

(a) Public records are open to inspection at all times during the office hours of the state or local agency and every citizen has a right to inspect any public record, except as hereafter provided. Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section

The following state and local bodies shall establish written guidelines for accessibility of records by July 1, 1974. A copy of these guidelines shall be posted in a conspicuous public place at the offices of such bodies by July 1, 1974, and a copy of such guidelines shall thereafter be available upon request free of charge to any person requesting that body's records:

Department of Motor Vehicles
Department of Consumer Affairs
Department of Transportation
Department of Real Estate
Department of Corrections
California Youth Authority
Department of Justice
Department of Insurance
Department of Corporations
Secretary of State
Air Resources Board
Department of Water Resources
Department of Parks and Recreation
Bay Conservation and Development Commission
Department of Health
Department of Employment Development
Department of Benefit Payments
Public Employees' Retirement System
Teachers' Retirement System

Department of Industrial Relations
Department of General Services
Department of Veterans Affairs
Public Utilities Commission
California Coastline Commission
All regional coastline commissions
State Water Quality Control Board
Bay Area Rapid Transit District
All regional water quality control boards
Los Angeles Air Pollution Control District
Bay Area Air Pollution Control District
Golden Gate Bridge, Highway, and Transportation District.

(b) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make such records accessible to the public.

§6254. Records exempt from disclosure requirements. Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code until such litigation or claim has been finally adjudicated or otherwise settled;

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies;

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1);

(3) Preliminary drafts, notes, or interagency or intraagency communications prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1); or

(4) Information received in confidence by any state agency referred to in subdivision (1).

(e) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person;

(f) Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement or licensing purposes;

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination;

(h) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision;

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information;

(j) Library and museum materials made or acquired and presented solely for reference or exhibition purposes; and

(k) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) In the custody of or maintained by the Governor or employees of the Governor's office employed directly in his office, provided that public records shall not be transferred to the custody of the Governor's office to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such licensing agency to establish his personal qualification for the license, certificate, or permit applied for.

Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

§6255. Withholding records from inspection: Justification: Public interest.

The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record.

§6256. Identifiable public records: Right to copy or information.

Any person may receive a copy of any identifiable public record or copy thereof. Upon request, an exact copy shall be provided unless impracticable to do so. Computer data shall be provided in a form determined by the agency.

§6257. Request for copy: Fee. A request for a copy of an identifiable public record or information produced therefrom, or a certified copy of such record, shall be accompanied by payment of a reasonable fee or deposit established by the state or local agency, or the prescribed statutory fee, where applicable.

§6258. Enforcement of right to inspect or receive copy of records: Proceedings.

Any person may institute proceedings for injunctive or declarative relief in any court of competent jurisdiction to enforce his right to inspect or to receive a copy of any public record or class of public records under this chapter. The times for responsive pleadings and for hearings in such proceedings shall be set by the judge of the court with the object of securing a decision as to such matters at the earliest possible time.

§6259. Order to show cause: Order to make record public: Order supporting decision refusing disclosure: Contempt.

Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such oral argument and additional evidence as the court may allow.

If the court finds that the public official's decision to refuse disclosure is not justified under the provisions of Section 6254 or 6255, he shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure. Any person who fails to obey the order of the court shall be cited to show cause why he is not in contempt of court.

§6260. Status of existing judicial records unaffected by chapter provision.

The provision of this chapter shall not be deemed in any manner to affect the status of judicial records as it existed immediately prior to the effective date of this section, nor to affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of this state.

§ 18200. Employment of person advocating sabotage, etc., prohibited: Discharge: Compensation. A person shall not be knowingly employed by any State agency or court who either directly or indirectly carries on, advocates, teaches, justifies, aids, or abets a program of sabotage, force and violence, sedition, or treason against the Government of the United States or of this State.

Any person employed by any State agency or court shall be immediately discharged from his employment when it becomes known to his appointing power that he has, during the period of his employment, committed any such act.

Money appropriated from the treasury shall not be expended to compensate any person whose employment is forbidden by this section.

§ 53069.5. Reward for information leading to apprehension of person damaging or destroying property: Liability for amount of reward

A local agency, as defined in Section 54951, may offer and pay a reward, the amount thereof to be determined by the local agency, for information leading to the determination of the identity of, and the apprehension of, any person whose willful misconduct results in injury or death to any student or any person employed by or performing volunteer services for the local agency or who willfully damages or destroys any property of the local agency or any property of any other local agency or state or federal agency located within the boundaries of the local agency.

Any person whose willful misconduct has resulted in injury or death to any student or any person employed by or performing volunteer services for a local agency or who has willfully damaged or destroyed any property of a local agency or any property of any other local agency or state or federal agency located within the boundaries of the local agency shall be liable for the amount of any reward paid pursuant to this section and if he is an unemancipated minor his parent or guardian shall also be liable for the amount.

§ 53069.6. Recovery of damages for damaging or taking agency's property

Each local agency, as defined in Section 54951, shall take all practical and reasonable steps to recover civil damages for the negligent, willful, or unlawful damaging or taking of property of the local agency, including the institution of appropriate legal action.

§ 54951. "Local agency"

As used in this chapter, "local agency" means a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency.

§ 68070. Rules: May be made by courts of record: Limitations

Every court of record may make rules for its own government and the government of its officers not inconsistent with law or with the rules adopted and prescribed by the Judicial Council. Such rules shall not:

(a) Impose any tax, charge, or penalty upon any legal proceeding, or for filing any pleading allowed by law.

(b) Give any allowance to any officer for services.

§ 68093. Witness fees: Superior court

Except as otherwise provided by law, witness' fees for each day's actual attendance, when legally required to attend upon the superior court, are twelve dollars ($12) a day and mileage actually traveled, one way only, twenty cents ($0.20) a mile. In criminal cases such per diem and mileage are discretionary and shall only be allowed upon a showing that the allowances are necessary for the expenses of the witness in attending. The court may disallow any fees to a witness unnecessarily subpoenaed.

§ 68094. Grand jury

Except as otherwise provided by law, witness' fees for each day's actual attendance, when legally required to attend before a grand jury, are twelve dollars ($12) a day and mileage for each mile actually traveled in attendance as such witness, one way only twenty cents ($0.20). Such per diem and mileage are discretionary and shall only be allowed upon a showing that the allowances are necessary for the expenses of the witness in attending. The court may disallow any fees to a witness unnecessarily subpoenaed.

§ 68095. Coroner's jury

Except as otherwise provided by law, witness' fees for each day's actual attendance, when legally required to attend, or if the witness attends voluntarily and is called to testify, before a coroner's jury, are twelve dollars ($12) a day and mileage for each mile actually traveled in attendance as a witness, one way only, twenty cents ($0.20). Such per diem and mileage shall be a county charge.

§ 68096. Justice court: Civil cases: When disallowed

Except as otherwise provided by law, witness' fees for each day's attendance upon a justice court, when legally required to attend, are twelve dollars ($12) a day and mileage for each mile actually traveled, in going only, twenty cents ($0.20). In criminal cases such per diem and mileage shall be a county charge, shall be discretionary with the court, and shall only be allowed upon a showing that the allowances are necessary for the expenses of the witness in attending. The court may disallow any fees to a witness unnecessarily subpoenaed.

§ 68097. Payment in civil cases of mileage and fees for one day in advance: Demand: Effect of nonpayment

Witnesses in civil cases may demand the payment of their mileage and fees for one day, in advance, and when so demanded shall not be compelled to attend until the allowances are paid except as hereinafter provided for members of the California Highway Patrol, sheriffs, deputy sheriffs, marshals, deputy marshals, firemen, and city policemen.

For the purposes of this section and Sections 68097.1 through 68097.10, the term "member of the California Highway Patrol" shall include those persons employed as vehicle inspection specialists by the California Highway Patrol.

§ 72232. Witnesses and jurors in criminal cases

Witnesses and jurors in criminal cases shall be paid by the county in the manner provided for the payment of such fees in the county or city and county in which any such municipal court is situated.

California Health & Safety Code

11019. Narcotic Drug.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (a), but not including the isoquinoline alkaloids of opium.

(c) Opium poppy and poppy straw.

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

11032. Respective schedules to which terms "narcotics" and "restricted dangerous drugs" refer: Reference term "marijuana." Whenever reference is made to the term "narcotics" in any provision of law outside of this division, unless otherwise expressly provided, it shall be construed to mean controlled substances classified in Schedules I and II, as defined in this division. Whenever reference is made to "restricted dangerous drugs" outside of this division, unless otherwise expressly provided, it shall be construed to mean controlled substances classified in Schedules III and IV. Whenever reference is made to the term "marijuana" in any provision of law outside of this division, unless otherwise expressly provided, it shall be construed to mean marijuana as defined in this division.

§ 11053. Nomenclature of substances listed.

The controlled substances listed or to be listed in the schedules in this chapter are included by whatever official, common, usual, chemical, or trade name designated.

§ 11054. Schedule I list of controlled substances.

(a) The controlled substances listed in this section are included in Schedule I.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Acethlmethadol.
(2) Allylprodine.
(3) Alphacetylmethadol.
(4) Alphameprodine.
(5) Alphamethadol.
(6) Benzethidine.
(7) Betacetylmethadol.
(8) Betameprodine.
(9) Betamethodol.
(10) Betaprodine.
(11) Clonitazene.
(12) Dextromoramide.
(13) Dextrorphan.
(14) Diampromide.
(15) Diethylthiambutene.
(16) Dimenoxadol.
(17) Dimepheptanol.
(18) Dimethylthiambutene.
(19) Dioxaphetyl butyrate.
(20) Dipipanone.
(21) Ethylmethylthiambutene.
(22) Etonitazene.
(23) Etoxeridine.
(24) Furethidine.
(25) Hydroxypethidine.
(26) Ketobemidone.
(27) Levomoramide.
(28) Levophenacylmorphan.
(29) Morpheridine.
(30) Noracymethadol.
(31) Norlevorphanol.
(32) Normethadone.

(33) Norpipanone.
(34) Phenadoxone.
(35) Phenampromide.
(36) Phenomorphan.
(37) Phenoperidine.
(38) Piritramide.
(39) Proheptazine.
(40) Properidine.
(41) Propiran.
(42) Racemoramide.
(43) Trimeperidine.

(c) Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine.
(2) Acetyldihydrocodeine.
(3) Benzylmorphine.
(4) Codeine methylbromide.
(5) Codeine-N-oxide.
(6) Cyprenorphine.
(7) Desomorphine.
(8) Dihydromorphine.
(9) Etorphine.
(10) Heroin.
(11) Hydromorphinol.
(12) Methyldesorphine.
(13) Methyldihydromorphine.
(14) Morphine methylbromide.
(15) Morphine methylsulfonate.
(16) Morphine-N-oxide.
(17) Myrophine.
(18) Nicocodeine.
(19) Nicomorphine.
(20) Normorphine.
(21) Pholcodine.
(22) Thebacon.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers are possible within the specific chemical designation:

(1) 3,4-methylenedioxy amphetamine.
(2) 5-methoxy-3,4-methylenedioxy amphetamine.
(3) 3,4,5-trimethoxy amphetamine.

(4) Bufotenine.
(5) Diethyltryptamine.
(6) Dimethyltryptamine.
(7) 4-methyl-2,5-dimethoxylamphetamine.
(8) Ibogaine.
(9) Lysergic acid diethylamide.
(10) Marijuana.
(11) Mescaline.
(12) Peyote.
(13) N-ethyl-3-piperidyl benzilate.
(14) N-methyl-3-piperidyl benzilate.
(15) Psilocybin.
(16) Psilocyn.
(17) Tetrahydrocannabinols.

11055. (a) The controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, with the exception of naloxone hydrochloride (N-allyl-14-hydroxynordihydromorphinone hydrochloride), but including the following:

(i) Raw opium.
(ii) Opium extracts.
(iii) Opium fluid extracts.
(iv) Powdered opium.
(v) Granulated opium.
(vi) Tincture of opium.
(vii) Apomorphine.
(viii) Codeine.
(ix) Ethylmorphine.
(x) Hydrocodone.
(xi) Hydromorphone.
(xii) Metopon.
(xiii) Morphine.
(xiv) Oxycodone.
(xv) Oxymorphone.
(xvi) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(c) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(1) Alphaprodine.

(2) Anileridine.

(3) Bezitramide.

(4) Dihydrocodeine.

(5) Diphenoxylate.

(6) Fentanyl.

(7) Isomethadone.

(8) Levomethorphon.

(9) Levorphanol.

(10) Metazocine.

(11) Methadone.

(12) Methadone—intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane.

(13) Moramide—intermediate, 2-methyl-3-morpholino-1,1-diphenyl-propane-carboxylic acid.

(14) Pethidine.

(15) Pethidine—intermediate—A, 4-cyano-1-methyl-4-phenylpiperidine.

(16) Pethidine—intermediate—B, ethyl-4-phenylpiperidine-4-carboxylate.

(17) Pethidine—intermediate—C, 1-methyl-4-phenyl-

(18) Phenazocine.

(19) Piminodine.

(20) Racemethorphan.

(21) Racemorphan.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(2) Phenmetrazine and its salts.

(3) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

(4) Methylphenidate.

11056. Schedule III list of controlled substances.

(a) The controlled substances listed in this section are included in Schedule III.

(b) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules.
(2) Chlorhexadol.
(3) Glutethimide.
(4) Lysergic acid.
(5) Lysergic acid amide.
(6) Methaqualone and its salts.
(7) Methyprylon.
(8) Phencyclidine.
(9) Sulfondiethylmethane.
(10) Sulfonethylmethane.
(11) Sulfonmethane.

(c) Nalorphine.

(d) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.
(2) Not more than 1.8 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
(3) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.
(4) Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
(5) Not more than 1.8 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90

milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

§ 11057. Schedule IV list of controlled substances.

(a) The controlled substances listed in this section are included in Schedule IV.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

(1) Barbital.
(2) Chloral betaine.
(3) Chloral hydrate
(4) Ethchlorvynol.
(5) Ethinamate.
(6) Methohexital.
(7) Meprobamate.
(8) Methylphenobarbital.
(9) Paraldehyde.
(10) Petrichloral.
(11) Phenobarbital.

§ 11058. Schedule V list of controlled substances.

(a) The controlled substances listed in this section are included in Schedule V.

(b) Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams.

11350. Unlawful possession.

([illegible] Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison for a period of not less than two years or more than 10 years and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than two years in the state prison.

(b) If such person has been previously convicted once of any offense described in subdivision (d), the previous conviction shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of not less than five years or more than 20 years and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than five years in the state prison.

(c) If such a person has been previously convicted two or more times of any offense described in subdivision (d), the previous convictions shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of 15 years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than 15 years in the state prison.

(d) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall be charged pursuant to subdivision (b) or (c) of this section.

(1) Any felony offense described in this division involving a controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (10), (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(2) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

11353. Inducement of minor's violation, etc. (by person 18 years of age or over).

(a) **Every person 18 years of age or over who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall knowingly violate any provision of this chapter or Section 11550 with respect to (1) a controlled substance, which is specified in subdivision (b) or (c) of Section** 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055 or, (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, who hires, employs, or uses a minor to knowingly and unlawfully transport, carry, sell, give away, prepare for sale, or peddle any such controlled substance, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, or administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison for a period of 10 years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than five years in the state prison.

(b) If such person has been previously convicted once of any offense described in subdivision (d), the previous conviction shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of 10 years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than 10 years in the state prison.

(c) If such person has been previously convicted two or more times of any offense described in subdivision (d), the previous convictions shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of 15 years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than 15 years in the state prison.

(d) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall be charged pursuant to subdivision (b) or (c) of this section:

(1) **Any felony offense described in Section 11378, 11379, or 11380.**

(2) **Any felony offense described in this division involving a controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (10), (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.**

(3) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

11354. Inducement of minor's violation, etc. (by person under age of 18).

(a) Every person under the age of 18 years who in any voluntary manner solicits, induces, encourages, or intimidates any minor with the intent that the minor shall knowingly violate any provision of this chapter or Section 11550, who hires, employs, or uses a minor to knowingly and unlawfully transport, carry, sell, give away, prepare for sale, or peddle (a) any controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055 or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, or who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give, any such controlled substance to a minor shall be punished by imprisonment in the state prison for a period of not less than five years.

(b) If such person has been previously convicted of any offense described in subdivision (c), the previous conviction shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of not less than 10 years.

(c) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall be charged pursuant to subdivision (b) of this section:

(1) Any felony offense described in Section 11378, 11379, or 11380.

(2) Any felony offense described in this division involving a controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (10), (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(3) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

(d) This section is not intended to affect the jurisdiction of the juvenile court.

11357. (a) Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment, or shall be punished by imprisonment in the state prison for a period of not less than one year or more than five years.

(b) Except as authorized by law, every person who possesses not more than one avoirdupois ounce of marijuana, other than concentrated cannabis, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100). Notwithstanding other provisions of law, if such person has been previously convicted three or more times of an offense described in this subdivision during the two-year period immediately preceding the date of commission of the violation to be charged, the previous convictions shall also be charged in the accusatory pleading and if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, the provisions of Sections 1000.1 and 1000.2 of the Penal Code shall be applicable to him, and the court shall divert and refer him for education, treatment, or rehabilitation, without a court hearing or determination or the concurrence of the district attorney, to an appropriate community program which will accept him. If the person is so diverted and referred he shall not be subject to the fine specified in this subdivision. If no community program will accept him, the person shall be subject to the fine specified in this subdivision. In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(c) Except as authorized by law, every person who possesses more than one avoirdupois ounce of marijuana, other than concentrated cannabis, shall be punished by imprisonment in the county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment. (Eff. 1-1-76)

§11358. Unlawful planting, processing, etc.

(a) Every person who plants, cultivates, harvests, dries, or processes any marijuana or any part thereof, except as otherwise provided by law, shall be punished by imprisonment in the state prison for a period of not less than one year or more than 10 years and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than one year in the state prison.

(b) If such person has been previously convicted once of any offense described in subdivision (d), the previous conviction shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of not less than two years or more than 20 years and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than two years in the state prison.

(c) If such person has been previously convicted two or more times of any offense described in subdivision (d), the previous convictions shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of five years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than five years in the state prison.

(d) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall be charged pursuant to subdivision (b) or (c) of this section:

(1) Any felony offense described in Section 11378, 11379, or 11380.

(2) Any felony offense described in this division involving a controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (10), (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(3) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

§11359. Unlawful possession for sale.

(a) Every person who possesses for sale any marijuana, except as otherwise provided by law, shall be punished by imprisonment in the state prison for a period of not less than two years or more than 10 years and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than two years in the state prison.

(b) If such person has been previously convicted once of any offense described in subdivision (d), the previous conviction shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of not less than five years or more than 15 years and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than three years in the state prison.

(c) If such person has been previously convicted two or more times of any offense described in subdivision (d), the previous convictions shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of 10 years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than six years in the state prison.

(d) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall be charged pursuant to subdivision (b) or (c) of this section:

(1) Any felony offense described in Section 11378, 11379, or 11380.

(2) Any felony offense described in this division involving a controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (10), (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(3) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

11360. (a) Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any marijuana shall be punished by imprisonment in the state prison for a period of five years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than three years in the state prison.

If such person has been previously convicted two or more times of any offense described in subdivision (b), the previous convictions shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of 10 years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than 10 years in the state prison.

(b) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall be charged pursuant to subdivision (a) of this section:

(1) Any felony offense described in Section 11378, 11379, or 11380.

(2) Any felony offense described in this division involving a controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (10), (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(3) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

(c) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than one avoirdupois ounce of marijuana, other than concentrated cannabis, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

§11361. Unlawful employment of, or sale to, etc., minor.

(a) Every person 18 years of age or over who hires, employs, or uses a minor in unlawfully transporting, carrying, selling, giving away, preparing for sale, or peddling any marijuana, who unlawfully sells, furnishes, administers, gives, or offers to sell, furnish, administer, or give any marijuana to a minor, or who induces a minor to use marijuana in violation of law shall be punished by imprisonment in the state prison for a period of 10 years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than five years in the state prison.

(b) If such person has been previously convicted once of any offense described in subdivision (d), the previous conviction shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of 10 years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than 10 years in the state prison.

(c) If such person has been previously convicted two or more times of any offense described in subdivision (d) the previous convictions shall be charged in the indictment of information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of 15 years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than 15 years in the state prison.

(d) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall be charged pursuant to subdivision (b) or (c) of this section:

(1) Any felony offense described in Section 11378, 11379, or 11380.

(2) Any felony offense described in this division involving a controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (10), (11), (12), or (17) or subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(3) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

11364. It is unlawful to possess an opium pipe or any device, contrivance, instrument or paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055 or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V. (Eff. 1-1-76)

11365. It is unlawful to visit or to be in any room or place where any controlled substances which are specified in subdivision (b) or (c) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or which are narcotic drugs classified in Schedule III, IV, or V, are being unlawfully smoked or used with knowledge that such activity is occurring. (Eff. 1-1-76)

§11377. Unlawful possession.

(a) Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, other than any substance specified in paragraph (6) of subdivision (b) of Section 11056, and which is not a narcotic drug or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, or specified in subdivision (d) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the county jail for a period of not more than one year or the state prison for a period of not less than one year nor more than 10 years.

(b) Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance specified in paragraph (6) of subdivision (b) of Section 11056, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by a fine of not exceeding five hundred dollars ($500), or by imprisonment in the county jail for not exceeding six months, or both such fine and imprisonment.

(c) If a person charged with an alleged violation of subdivision (a) has been previously convicted once of any offense described in subdivision (d), the previous conviction shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of not less than two years or more than 20 years and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than two years in the state prison.

(d) Any previous conviction of any felony offense described in this article, of a conspiracy to commit any offense described in this article, or of any offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such a felony offense, shall be charged pursuant to subdivision (c).

§11378. Unlawful possession for sale.

(a) Except as otherwise provided in Article 8 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses for sale any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, or specified in subdivision (d) of Section 11055, shall be punished by imprisonment in the state prison for a period of not less than two years or more than 10 years and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for not less than two years in the state prison.

(b) If such person has been previously convicted once of any offense described in subdivision (d), the previous conviction shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of not less than five years or more than 15 years and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for not less than three years in the state prison.

(c) If such person has been previously convicted two or more times of any offense described in subdivision (d), the previous convictions shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of 10 years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than six years in the state prison.

(d) Any previous conviction of any of the following offenses, of a conspiracy to commit such an offense, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall be charged pursuant to subdivision (b) or (c) of this section:

(1) Any felony offense described in Section 11351, 11352, 11353, 11354, 11358, 11359, 11360, 11361, 11363, or 11366.

(2) Any felony offense described in this article.

§11380. Inducing, etc., violation by minor.

(a) Every person 18 years of age or over who violates any provision of this chapter involving controlled substances which are (1) classified in Schedule III, IV, or V and which are not narcotic drugs or (2) which are specified in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, or specified in subdivision (d) of Section 11055, by the use of a minor as agent, who solicits, induces, encourages, or intimidates any minor with the intent that the minor shall violate any provision of this article involving such controlled substances or who unlawfully furnishes, offers to furnish, or attempts to furnish such controlled substances to a minor shall be punished by imprisonment in the state prison for a period of 10 years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than five years in the state prison.

(b) If such person has been previously convicted once of any offense described in subdivision (d), the previous conviction shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of 10 years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than 10 years in the state prison.

(c) If such person has been previously convicted two or more times of any offense described in subdivision (d) the previous convictions shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of 15 years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than 15 years in the state prison.

(d) Any previous conviction of any of the following offenses, of a conspiracy to commit such an offense, or of an offense under the laws of another state or of the Untied States which, if committed in this state, would have been punishable as such an offense, shall be charged pursuant to subdivision (b) or (c) of this section:

(1) Any felony offense described in Section 11351, 11352, 11353, 11354, 11358, 11359, 11360, 11361, 11363, or 11366.

(2) Any felony offense described in this article.

(e) Nothing contained in this section shall apply to a registered pharmacist furnishing controlled substances pursuant to a prescription.

§11382. Unlawful sale, transportation, etc., pursuant to agreement, etc.

Every person who agrees, consents, or in any manner offers to unlawfully sell, furnish, transport, administer, or give any controlled substance which is (1) classified in Schedule III, IV, or V and which is not a narcotic drug, or (2) which is specified in subdivision (d) of Section 11054, except paragraphs (10), (11), (12), and (17) of such subdivision, or specified in subdivision (d) of Section 11055, to any person, or offers, arranges, or negotiates to have any such controlled substance unlawfully sold, delivered, transported, furnished, administered, or given to any person and then sells, delivers, furnishes, transports, administers, or gives, or offers, or arranges, or negotiates to have sold, delivered, transported, furnished, administered, or given to any person any other liquid, substance, or material in lieu of any such controlled substance shall be punished by imprisonment in the county jail for not more than one year, or in the state prison for not more than five years.

11550. No person shall use, or be under the influence of any controlled substance which is (1) specified in subdivision (b) or (c) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) which is a narcotic drug classified in Schedule III, IV, or V, excepting when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. Any person convicted of violating any provision of this section is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90 days nor more than one year in the county jail. The court may place a person convicted hereunder on probation for a period not to exceed five years and shall in all cases in which probation is granted require as a condition thereof that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this section from the obligation of spending at least 90 days in confinement in the county jail.

(a) Any person who, on or after the effective date of this section, is convicted in the State of California of any offense defined in Section 11350, 11351, 11352, 11353, 11354, 11355, 11357, 11358, 11359, 11360, 11361, 11363, 11366, 11368, or 11550, or any person who is, on or after such date, discharged or paroled from a penal institution where he was confined because of the commission of any such offense, or any person who is, on or after such date, convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses, shall within 30 days after the effective date of this section or within 30 days of his coming into any county or city, or city and county in which he resides or is temporarily domiciled for such length of time, register with the chief of police of the city in which he resides or the sheriff of the county if he resides in an unincorporated area.

(b) Any person who, on or after the effective date of this section is convicted in any federal court of any offense which, if committed or attempted in this state would have been punishable as one or more of the offenses enumerated in subdivision (a) shall within 30 days after the effective date of this section or within 30 days of his coming into any county or city, or city and county in which he resides or is temporarily domiciled for such length of time, register with the chief of police of the city in which he resides or the sheriff of the county if he resides in an unincorporated area.

(c) This section does not apply to a conviction of a misdemeanor under Section 11357 or 11360. (Eff. 1-1-76)

§ 12000. "Explosives."

For the purposes of this part, the term "explosives" shall mean any substance, or combination of substances, the primary or common purpose of which is detonation or rapid combustion and which is capable of a relatively instantaneous or rapid release of gas and heat, or any substance, the primary purpose of which, when combined with others, is to form a substance capable of a relatively instantaneous or rapid release of gas and heat. The term "explosives" shall include, but shall not necessarily be limited to, any of the following:

(a) Dynamite, nitroglycerine, picric acid, lead azide, fulminate of mercury, black powder, smokeless powder, propellant explosives, detonating primers, blasting caps, or commercial boosters.

(b) Substances determined to be class A and class B explosives as classified by the United States Department of Transportation.

(c) Nitro carbo nitrate substances (blasting agent) as classified by the United States Department of Transportation.

(d) Any material designated as an explosive by the State Fire Marshal. Such designation shall be made pursuant to the classification standards established by the United States Department of Transportation. The State Fire Marshal shall adopt regulations in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code to establish procedures for the classification and designation of explosive materials or explosive devices that are not under the jurisdiction of the United States Department of Transportation.

(e) Certain class C explosives as designated by the United States Department of Transportation when listed in regulations adopted by the State Fire Marshal.

For the purposes of this part, the term "explosives" shall not include any destructive device, as defined in Section 12301 of the Penal Code, nor shall it include ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols.

§ 12082. Sales, etc., to minors prohibited.

No explosives shall be sold, furnished, or given away to any person under 21 years of age, whether such person is acting for himself or for another person, nor shall any such person be eligible to obtain any permit to receive explosives governed by the provisions of this part.

The reference to "under 21 years of age" in this section is unaffected by Section 1 of Chapter 1748 of the Statutes of 1971 or any other provision of that chapter.

§ 12305. Same: Unlawful possession.

Every person not in the lawful possession of an explosive who knowingly has any explosive in his possession is guilty of a felony.

If such person has been previously convicted two or more times of any felony offense described in this division or of any offense under the laws of any other state or the United States which, if committed in this state, would have been punishable as a felony offense described in this division, the previous convictions shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of 15 years to life and shall not be eligible for release upon completion of sentence or on parole or any other basis until he has been imprisoned for a period of not less than 15 years in the state prison.

§26010. "Drug."

"Drug" means any of the following:

(a) Any article which is recognized in an official compendium.

(b) Any article which is used or intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or any other animal.

(c) Any article other than food, which is used or intended to affect the structure or any function of the body of man or any other animal.

(d) Any article which is used or intended for use as a component of any article designated in subdivision (a), (b), or (c) of this section.

The term "drug" does not include any device.

California Labor Code

§ 1412. Same: Opportunity for employment without discrimination as civil right.

The opportunity to seek, obtain and hold employment without discrimination because of race, religious creed, color, national origin, ancestry, physical handicap, or sex is hereby recognized as and declared to be a civil right.

§ 1413. Definition: "Person": "Employment agency": "Labor organization": "Employer": "Employee": "Commission."

As used in this part:

(a) "Person" includes one or more individuals, partnerships, associations or corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

(b) "Employment agency" includes any person undertaking for compensation to procure employees or opportunities to work.

(c) "Labor organization" includes any organization which exists and is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection.

(d) "Employer," except as hereinafter provided, includes any person regularly employing five or more persons, or any person acting as an agent of an employer, directly or indirectly; the state or any political or civil subdivision thereof and cities.

"Employer" does not include a social club, fraternal, charitable, educational or religious association or corporation not organized for private profit.

(e) "Employee" does not include any individual employed by his parents, spouse or child, or any individual employed under a special license in a nonprofit sheltered workshop or rehabilitation facility.

(f) "Commission," unless a different meaning clearly appears from the context, means the State Fair Employment Practice Commission created by this part.

(g) "Affirmative actions" means any educational activity for the purpose of securing greater employment opportunities for members of racial, religious, or nationality minority groups and any promotional activity designed to secure greater employment opportunities for the members of such groups on a voluntary basis.

(h) "physical handicap" includes impairment of sight, hearing, or speech, or impairment of physical ability because of amputation or loss of function or coordination, or any other health impairment which requires special education or related services.

§ 2651. Prohibited homework manufactures: Specified articles and work. The manufacture by industrial homework of any of the following materials or articles shall be unlawful, and no license or permit issued under this part shall be deemed to authorize such manufacture: articles of food or drink; articles for use in connection with the serving of food or drink; articles of wearing apparel for use of children 10 years of age or under; toys and dolls; tobacco; drugs and poisons; bandages and other sanitary goods; explosives, fireworks, and articles of like character; articles, the manufacture of which by industrial homework is determined by the division to be injurious to the health or welfare of the industrial homeworkers within the industry or to render unduly difficult the maintenance of existing labor standards or the enforcement of labor standards established by law or regulation for factory workers in the industry.

§ 3367. Persons rendering technical assistance to public entity to prevent hazardous occurrences as entitled to receive compensation benefits.

For purposes of this division any person voluntarily rendering technical assistance to a public entity to prevent a fire, explosion or other hazardous occurrences, at the request of a duly authorized fire or law enforcement officer of that public entity is deemed an employee of the public entity to whom the technical assistance was rendered, and is entitled to receive compensation benefits in accordance with the provisions of this division. Rendering technical assistance shall include the time such person is traveling to, or returning from, the location of the potentially hazardous condition for which he has been requested to volunteer his assistance.

§17. [Felony defined: Misdemeanor defined: Commitment to Youth Authority: Effect of granting probation]

(a) A felony is a crime which is punishable with death or by imprisonment in the state prison. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions.

(b) When a crime is punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, it is a misdemeanor for all purposes under the following circumstances:

(1) After a judgment imposing a punishment other than imprisonment in the state prison.

(2) When the court commits the defendant to the Youth Authority.

(3) When the court grants probation to a defendant without imposition of sentence and at the time of granting probation, or on application of the defendant or probation officer thereafter the court declares the offense to be a misdemeanor.

(4) When the prosecuting attorney files in a court having jurisdiction over misdemeanor offenses a complaint specifying that the offense is a misdemeanor, unless the defendant at the time of his arraignment or plea objects to the offense being made a misdemeanor, in which event the complaint shall be amended to charge the felony and the case shall proceed on the felony complaint.

(5) When, at or before the preliminary examination and with the consent of the prosecuting attorney and the defendant, the magistrate determines that the offense is a misdemeanor in which event the case shall proceed as if the defendant had been arraigned on a misdemeanor complaint.

§ 69. [Resisting executive officers: Punishment]

Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon such officer by law, or who knowingly resists, by the use of force or violence, such officer, in the performance of his duty, is punishable by a fine not exceeding five thousand dollars, or by imprisonment in the state prison not exceeding five years or in a county jail not exceeding one year, or by both such fine and imprisonment.

§ 71. [Threatening school officer or employee, etc.: Effect of previous conviction: "Directly communicated."]

Every person who, with intent to cause, attempts to cause, or causes, any officer or employee of any public or private educational institution or any public officer or employee to do, or refrain from doing, any act in the performance of his duties, by means of a threat, directly communicated to such person, to inflict an unlawful injury upon any person or property, and it reasonably appears to the recipient of the threat that such threat could be carried out, is guilty of a public offense punishable as follows:

(1) Upon a first conviction, such person is punishable by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the state prison not exceeding five years or in a county jail not exceeding one year, or by both such fine and imprisonment.

(2) If such person has been previously convicted of a violation of this section, such previous conviction shall be charged in the accusatory pleading, and if such previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, he is punishable by imprisonment in the state prison not exceeding five years.

As used in this section, "directly communicated" includes, but is not limited to, a communication to the recipient of the threat by telephone, telegraph, or letter. [Added by Stats. 1969, ch. 1207, § 1.]

§ 148. [Resisting public officers in the discharge of their duties: Penalty]

Every person who wilfully resists, delays, or obstructs any public officer, in the discharge or attempt to discharge any duty of his office, when no other punishment is prescribed, is punishable by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

§ 148.1. [False report of planting of bomb or other explosive]

(a) Any person who reports to any police officer, sheriff, employee of a fire department or fire service, district attorney, newspaper, radio station, television station, deputy sheriff, deputy district attorney, member of the California Highway Patrol, employees of an airline, employees of an airport, employees of a railroad or busline, an employee of a telephone company, occupants of a building or a news reporter in the employ of a newspaper or radio or television station, that a bomb or other explosive has been placed or secreted in any public or private place knowing that such report is false, is guilty of a crime punishable by imprisonment in the state prison not to exceed three years, or imprisonment in the county jail not to exceed one year.

(b) Any person who maliciously informs any other person that a bomb or other explosive has been placed or secreted in any public or private place, knowing that such information is false, is guilty of a crime punishable by imprisonment in the state prison not to exceed three years, or imprisonment in the county jail not to exceed one year.

(c) Any person who maliciously gives, mails, sends, or causes to be sent any false or facsimile bomb to another person, or places or causes to be placed any false or facsimile bomb, with the intent that any other person think it is a real bomb and with knowledge that it is a false or facsimile bomb, is guilty of a crime punishable by imprisonment in the state prison not to exceed three years, or by imprisonment in the county jail not to exceed one year.

§182. [Criminal conspiracy: Acts constituting: Punishment: Venue.] If two or more persons conspire:

1. To commit any crime.

2. Falsely and maliciously to indict another for any crime, or to procure another to be charged or arrested for any crime.

3. Falsely to move or maintain any suit, action or proceeding.

4. To cheat and defraud any person of any property, by any means which are in themselves criminal, or to obtain money or property by false pretenses or by false promises with fraudulent intent not to perform such promises.

5. To commit any act injurious to the public health, to public morals, or to pervert or obstruct justice, or the due administration of the laws.

6. To commit any crime against the person of the President or Vice President of the United States, the governor of any state or territory, any United States justice or judge, or the secretary of any of the executive departments of the United States.

They are punishable as follows:

When they conspire to commit any crime against the person of any official specified in subdivision 6, they are guilty of a felony and are punishable by imprisonment in the state prison for not less than 10 years.

When they conspire to commit any other felony, they shall be punishable in the same manner and to the same extent as is provided for the punishment of the said felony. If the felony is one for which different punishments are prescribed for different degrees, the jury or court which finds the defendant guilty thereof shall determine the degree of the felony defendant conspired to commit. If the degree is not so determined, the punishment for conspiracy to commit such felony shall be that prescribed for the lesser degree, except in the case of conspiracy to commit murder, in which case the punishment shall be that prescribed for murder in the first degree.

If the felony is conspiracy to commit two or more felonies which have different punishments and the commission of such felonies constitute but one offense of conspiracy, the penalty shall be that prescribed for the felony which has the greater maximum term.

When they conspire to do an act described in subdivision 4 of this section, they shall be punishable by imprisonment in the state prison for not more than 10 years or by imprisonment in the county jail for not more than 1 year, or by a fine not exceeding five thousand dollars ($5,000), or both.

When they conspire to do any of the other acts described in this section they shall be punishable by imprisonment in the county jail for not more than one year, or in the state prison for not more than three years, or by a fine not exceeding five thousand dollars ($5,000) or both.

All cases of conspiracy may be prosecuted and tried in the superior court of any county in which any overt act tending to effect such conspiracy shall be done.

§184. [Overt act necessary: Place of trial.] No agreement amounts to a conspiracy, unless some act, beside such agreement, be done within this state to effect the object thereof, by one or more the parties to such agreement and the trial of cases of conspiracy may be had in any county in which any such act be done.

§211. Robbery defined. Robbery is the felonious taking of personal property in the possession of another, from his person of immediate presence, and against his will, accomplished by means of force or fear.

§213. [Punishment for robbery] Robbery is punishable by imprisonment in the state prison as follows:

1. Robbery in the first degree for not less than five years.
2. Robbery in the second degree, for not less than one year.

The preceding provisions of this section notwithstanding, in any case in which defendant committed robbery, and in the course of commission of the robberv, with the intent to inflict such injury inflicted great bodily injury on the victim of the robbery, such fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a court trial or if admitted by the defendant, defendant shall suffer confinement in the state prison from 15 years to life.

§217. Assault with intent to commit murder: [Punishment] Every person who assaults another with intent to commit murder, is punishable by imprisonment in the state prison not less than one or more than fourteen years.

§220. [Assault to commit rape, etc.: Punishment] Every person who assaults another with intent to commit rape, sodomy, mahem, robbery, or grand larceny, is punishable by imprisonment in the state prison not less than one year nor more than 20 years. (Effective 1/1/76)

§221. [Other assaults: Punishment] Every person who is guilty of an assault, with intent to commit any felony, except an assault with intent to commit murder, the punishment for which assault is not prescribed by the preceding section, is punishable by imprisonment in the state prison not exceeding 15 years, or in a county jail not exceeding one year, or by fine not exceeding five hundred dollars ($500), or by both.

§236. False imprisonment defined. False imprisonment is the unlawful violation of the personal liberty of another.

§237. [Same: Punishment] False imprisonment is punishable by fine not exceeding five hundred dollars, or by imprisonment in the county jail not more than one year, or by both. If such false imprisonment be effected by violence, menace, fraud, or deceit, it shall be punishable by imprisonment in the state prison for not less than one nor more than ten years.

§ 240. Assault defined

An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another.

§ 241. [Punishment for assault: Assault against peace officer]

An assault is punishable by fine not exceeding five hundred dollars ($500), or by imprisonment in the county jail not exceeding six months, or by both. When it is committed against the person of a peace officer or fireman, and the person committing the offense knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, and such peace officer or fireman is engaged in the performance of his duties, the offense shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison not exceeding two years.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, Section 830.2, or by subdivision (a) of Section 830.6, as well as any policeman of the San Francisco Port Commission and each deputized law enforcement member of the Wildlife Protection Branch of the Department of Fish and Game.

§ 242. Battery defined

A battery is any willful and unlawful use of force or violence upon the person of another.

§ 243. [Punishment for battery: Battery against peace officer]

A battery is punishable by fine of not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both. When it is committed against the person of a peace officer or fireman, and the person committing the offense knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, and such peace officer or fireman is engaged in the performance of his duties, the offense shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison for not less than one nor more than 10 years.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, Section 830.2, or by subdivision (a) of Section 830.6, as well as any policeman of the San Francisco Port Authority and each deputized law enforcement member of the Wildlife Protection Branch of the Department of Fish and Game.

§ 245. [Assault with deadly weapon: Punishment]

(a) Every person who commits an assault upon the person of another with a deadly weapon or instrument or by any means of force likely to produce great bodily injury is punishable by imprisonment in the state prison for six months to life, or in a county jail not exceeding one year, or by fine not exceeding five thousand dollars ($5,000), or by both such fine and imprisonment. When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument, and such weapon or instrument is owned by such person, the court may, in its discretion, order that the weapon or instrument be deemed a nuisance and shall be confiscated and destroyed in the manner provided by Section 12028.

(b) Every person who commits an assault with a deadly weapon or instrument or by any means likely to produce great bodily injury upon the person of a peace officer or fireman, and who knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, when such peace officer or fireman is engaged in the performance of his duties shall be punished by imprisonment in the state prison for six months to life; provided, that if such person has previously been convicted of a felony under the laws of this state or has previously been convicted of an offense under the laws of any other state or of the United States which, if committed in this state, would have been punishable as a felony, he shall be punished by imprisonment in the state prison for five years to life.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, Section 830.2, or by subdivision (a) of Section 830.6, as well as any policeman of the San Francisco Port Commission and each deputized law enforcement member of the Wildlife Protection Branch of the Department of Fish and Game.

§261. [Rape defined] Rape is an act of sexual intercourse, accomplished with a female not the wife of the perpetrator, under either of the following circumstances:

1. Where she is incapable, through lunacy or other unsoundness of mind, whether temporary or permanent, of giving legal consent;

2. Where she resists, but her resistance is overcome by force or violence;

3. Where she is prevented from resisting by threats of great and immediate bodily harm, accompanied by apparent power of execution or by any intoxicating narcotic, or anaesthetic, substance, administered by or with the privity of the accused;

4. Where she is at the time unconscious of the nature of the act, and this is known to the accused;

5. Where she submits under the belief that the person committing the act is her husband, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce such belief.

§261.5. [Unlawful sexual intercourse] Unlawful sexual intercourse is an act of sexual intercourse accomplished with a female not the wife of the perpetrator, where the female is under the age of 18 years.

§263. [Essentials of crime]: Penetration sufficient. The essential guilt of rape consists in the outrage to the person and feelings of the female. Any sexual penetration, however slight, is sufficient to complete the crime.

§264. [Punishment for rape: Recommendation by jury: Discretion of court]

Rape, as defined in Section 261, is punishable by imprisonment in the state prison for not less than three years. Unlawful sexual intercourse, as defined in Section 261.5, is punishable either by imprisonment in the county jail for not more than one year or in the state prison for not more than 50 years, and in such case the jury shall recommend by their verdict whether the punishment shall be by imprisonment in the county jail or in the state prison; provided, that when the defendant pleads guilty to an offense under Section 261.5 the punishment shall be in the discretion of the trial court, either by imprisonment in the county jail for not more than one year or in the state prison for not more than 50 years.

The preceding provisions of this section notwithstanding, in any case in which the defendant committed rape as defined in Section 261, and in the course of commission of the rape, with the intent to inflict such injury, inflicted great bodily injury on the victim of the rape, such fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a court trial, or if admitted by the defendant, defendant shall suffer confinement in the state prison from 15 years to life.

§264.1. [Aiding and abetting another in rape: Punishment] The provisions of Section 264 notwithstanding, in any case in which defendant, voluntarily acting in concert with another person, by force or violence and against the will of the victim, committed the rape, either personally or by aiding and abetting such other person, such fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a court trial, or if admitted by the defendant, defendant shall suffer confinement in the state prison from five years to life.

§ 270. [Omission to provide: Liability of parent: Proof of wilfulness: Application of section: Effect of written consent to artificial insemination.] If a parent of a minor child willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter or medical attendance, or other remedial care for his or her child, he or she is guilty of a misdemeanor punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. If a court of competent jurisdiction has made a final adjudication in either a civil or a criminal action that a person is the parent of a minor child and the person has notice of such adjudication and he or she then willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter, medical attendance or other remedial care for his or her child, this conduct is punishable by imprisonment in the county jail not exceeding one year or in a state prison not exceeding one year and one day, or by a fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment. This statute shall not be construed so as to relieve such parent from the criminal liability defined herein for such omission merely because the other parent of such child is legally entitled to the custody of such child nor because the other parent of such child or any other person or organization voluntarily or involuntarily furnishes such necessary food, clothing, shelter or medical attendance or other remedial care for such child or undertakes to do so.

Proof of abandonment or desertion of a child by such parent, or the omission by such parent to furnish necessary food, clothing, shelter or medical attendance or other remedial care for his or her child is prima facie evidence that such abandonment or desertion or omission to furnish necessary food, clothing, shelter or medical attendance or other remedial care is willful and without lawful excuse.

The court, in determining the ability of the parent to support his or her child, shall consider all income, including social insurance benefits and gifts.

The provisions of this section are applicable whether the parents of such child are or ever were married or divorced, and regardless of any decree made in any divorce action relative to alimony or to the support of the child. A child conceived but not yet born is to be deemed an existing person insofar as this section is concerned.

The husband of a woman who bears a child as a result of artificial insemination shall be considered the father of that child for the purposes of this section, if he consented in writing to the artificial insemination.

§ 272. [Contributing to delinquency of minor, etc.: Punishment.] Every person who commits any act or omits the performance of any duty, which act or omission causes or tends to cause or encourage any person under the age of 18 years to come within the provisions of Sections 600, 601, or 602 of the Welfare and Institutions Code or which act or omission contributes thereto, or any person who, by any act or omission, or by threats, commands, or persuasion, induces or endeavors to induce any person under the age of 18 years or any ward or dependent child of the juvenile court to fail or refuse to conform to a lawful order of the juvenile court, or to do or to perform any act or to follow any course of conduct or to so live as would cause or manifestly tend to cause any such person to become or to remain a person within the provisions of Sections 600, 601, or 602 of the Welfare and Institutions Code, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment in a county jail, or may be released on probation for a period not exceeding five years. The district attorney shall prosecute all violations charged under this section.

§ 273a. [Willful cruelty toward child: Endangering life, limb, or health: Punishment]

(1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding 1 year, or in the state prison for not less than 1 year nor more than 10 years.

(2) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

§273d. [Infliction of traumatic injury upon wife or child] Any husband who willfully inflicts upon his wife corporal injury resulting in a traumatic condition, and any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for not more than 10 years or in the county jail for not more than one year.

§ 273f. [Sending children to immoral places.] Any person whether as parent, guardian, employer, or otherwise, and any firm or corporation, who as employer or otherwise, shall send, direct, or cause to be sent or directed to any saloon, gamblinghouse, house of prostitution, or other immoral place, any minor, is guilty of a misdemeanor.

§273g. [Immoral practices or habitual drunkenness in presence of children] Any person who in the presence of any child indulges in any degrading, lewd, immoral or vicious habits or practices, or who is habitually drunk in the presence of any child in his care, custody or control, is guilty of a misdemeanor.

§288. [Crimes against children: Lewd or lascivious acts: Punishment] Any person who shall wilfully and lewdly commit any lewd or lascivious act including any of the acts constituting other crimes provided for in part one of this code upon or with the body, or any part or member thereof, of a child under the age of fourteen years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be guilty of a felony and shall be imprisoned in the State prison for a term of from one year to life.

§314. [Indecent exposures: Exhibitions: Penalty] Every person who wilfully and lewdly, either:

1. Exposes his person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or,

2. Procures, counsels, or assists any person so to expose himself or take part in any model artist exhibition, or to make any other exhibition of himself to public view, or the view of any number of persons, such as is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts, is guilty of a misdemeanor.

Upon the second and each subsequent conviction under subdivision 1 of this section, or upon a first conviction under subdivision 1 of this section after a previous conviction under Section 288 of this code, every person so convicted is guilty of a felony, and is punishable by imprisonment in state prison for not less than one year.

§ 403. [Disturbance of assembly or meeting other than religious or political]

Every person who, without authority of law, willfully disturbs or breaks up any assembly or meeting, not unlawful in its character, other than such as is mentioned in Section 302 of the Penal Code and Section 12046 of the Election Code, is guilty of a misdemeanor.

§ 404. "Riot" defined

Any use of force or violence, disturbing the public peace, or any threat to use such force or violence, if accompanied by immediate power of execution, by two or more persons acting together, and without authority of law, is a riot.

§ 404.6. [Urging riot, or burning or destroying of property: Inapplicability to lawful activity of labor organization]

Every person who with the intent to cause a riot does an act or engages in conduct which urges a riot, or urges others to commit acts of force or violence, or the burning or destroying of property, and at a time and place and under circumstances which produce a clear and present and immediate danger of acts of force or violence or the burning or destroying of property, is guilty of a misdemeanor.

This section shall not apply to, nor in any way affect, restrain, or interfere with, otherwise lawful activity engaged in by or on behalf of a labor organization or organizations by its members, agents or employees.

§ 405. [Riot, punishment of]

Every person who participates in any riot is punishable by a fine not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

§ 405a. ["Lynching" defined]

The taking by means of a riot of any person from the lawful custody of any peace officer is a lynching.

§ 405b. [Punishment for lynching]

Every person who participates in any lynching is punishable by imprisonment in the State prison for not more than twenty years.

§ 406. "Rout" defined

Whenever two or more persons, assembled and acting together, make any attempt or advance toward the commission of an act which would be a riot if actually committed, such assembly is a rout.

§ 407. "Unlawful assembly" defined

Whenever two or more persons assemble together to do an unlawful act, or do a lawful act in a violent, boisterous, or tumultuous manner, such assembly is an unlawful assembly.

§ 408. Participation in rout and unlawful assembly

Every person who participates in any rout or unlawful assembly is guilty of a misdemeanor.

§ 409. Remaining present at place of riot, etc., after warning to disperse

Every person remaining present at the place of any riot, rout, or unlawful assembly, after the same has been lawfully warned to disperse, except public officers and persons assisting them in attempting to disperse the same, is guilty of a misdemeanor.

§ 415. [Disturbing the peace: Horse-racing or shooting in unincorporated town: Profanity: Punishment]

Every person who maliciously and willfully disturbs the peace or quiet of any neighborhood or person, by loud or unusual noise, or by tumultuous or offensive conduct, or threatening, traducing, quarreling, challenging to fight, or fighting, or who, on the public streets of any unincorporated town, or upon the public highways in such unincorporated town, run any horse-race, either for a wager or for amusement, or fire any gun or pistol in such unincorporated town, or use any vulgar, profane, or indecent language within the presence or hearing of women or children, in a loud and boisterous manner, is guilty of a misdemeanor, and upon conviction by any court of competent jurisdiction shall be punished by fine not exceeding two hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both fine and imprisonment, or either, at the discretion of the court.

§ 416. Refusing to disperse upon lawful command

If two or more persons assemble for the purpose of disturbing the public peace, or committing any unlawful act, and do not disperse on being desired or commanded so to do by a public officer, the persons so offending are severally guilty of a misdemeanor.

§ 417. [Drawing, exhibiting or using firearm or other deadly weapon: Use for self-defense]

Every person who, except in self-defense, in the presence of any other person, draws or exhibits any firearm, whether loaded or unloaded, or any other deadly weapon whatsoever, in a rude, angry or threatening manner, or who in any manner, unlawfully uses the same in any fight or quarrel is guilty of a misdemeanor.

§ 448a. [Burning or aiding and abetting burning of building not parcel of dwelling-house or not used as dwelling: Punishment]

Any person who willfully and maliciously sets fire to or burns or causes to be burned or who aids, counsel or procures the burning of any barn, stable, garage or other building, whether the property of himself or of another, not a parcel of a dwelling house; or any shop, storehouse, warehouse, factory, mill or other building, whether the property of himself or of another; or any church, meetinghouse, courthouse, workhouse, school, jail or other public building or any public bridge; shall, upon conviction thereof, be sentenced to the penitentiary for not less than 2 nor more than 20 years.

§ 449a. [Burning personal property: Punishment]

Any person who wilfully and maliciously sets fire to or burns or causes to be burned or who aids, counsels or procures the burning of any barrack, cock, crib, rick or stack of hay, corn, wheat, oats, barley or other grain or vegetable product of any kind; or any field of standing hay or grain of any kind; or any pile of coal, wood or other fuel; or any pile of planks, boards, posts, rails or other lumber; or any streetcar, railway car, ship, boat or other watercraft, automobile or other motor vehicle; or any other personal property not herein specifically named except a trailer coach, as defined in Section 635 of the Vehicle Code; (such property being of the value of twenty-five dollars ($25) and the property of another person) shall upon conviction thereof, be sentenced to the penitentiary for not less than one nor more than three years.

§ 451a. [Attempt to burn property: Punishment]

Any person who willfully and maliciously attempts to set fire to or attempts to burn or to aid, counsel or procure the burning of any of the buildings or property mentioned in the foregoing sections, or who commits any act preliminary thereto, or in furtherance thereof, is guilty of a felony.

The placing or distributing of any flammable, explosive or combustible material or substance, or any device in or about any building or property mentioned in the foregoing sections in an arrangement or preparation with intent to eventually willfully and maliciously set fire to or burn same, or to procure the setting fire to or burning of the same shall, for the purposes of this act constitute an attempt to burn such building or property.

§ 452. [Possession of any flammable, etc., material or substance, or device, with intent to set fire or burn property: Punishment]

(a) Every person who possesses any flammable, explosive or combustible material or substance, or any device in an arrangement or preparation, with intent to willfully and maliciously use such material, substance or device to set fire to or burn any buildings or property mentioned in this chapter, is punishable by imprisonment in the state prison, not exceeding five years, or in the county jail, not exceeding one year.

(b) Every person who possesses, manufactures or disposes of a fire bomb is guilty of a felony.

For the purposes of this subdivision, "disposes of" means to give, give away, loan, offer, offer for sale, sell, or transfer.

For the purposes of this subdivision, a "fire bomb" is a breakable container containing a flammable liquid with a flash point of 150 degrees Fahrenheit or less, having a wick or similar device capable of being ignited, but no device commercially manufactured primarily for the purpose of illumination shall be deemed to be a fire bomb for the purposes of this subdivision.

(c) Subdivisions (a) and (b) of this section shall not prohibit the authorized use or possession of any material, substance or device described therein by a member of the armed forces of the United States or by firemen, police officers, peace officers, or law enforcement officers authorized by the properly constituted authorities; nor shall those subdivisions prohibit the use or possession of any material, substance or device described therein when used solely for scientific research or educational purposes, or for disposal of brush under permit as provided for in Section 4494 of the Public Resources Code, or for any other lawful burning. Subdivision (b) of this section shall not prohibit the manufacture or disposal of a fire bomb for the parties or purposes described in this subdivision.

§467. Having possession of deadly weapon with intent to commit an assault. Every person having upon him any deadly weapon with intent to assault another, is guilty of a misdemeanor.

§468. [Knowingly buying, selling, etc., sniperscope: Punishment: Exceptions]

Any person who knowingly buys, sells, receives, disposes of, conceals, or has in his possession a sniperscope shall be guilty of a misdemeanor, punishable by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

As used in this section, sniperscope means any attachment, device or similar contrivance designed for or adaptable to use on a firearm which, through the use of a projected infrared light source and electronic telescope, enables the operator thereof to visually determine and locate the presence of objects during the nighttime.

This section shall not prohibit the authorized use or possession of such sniperscope by a member of the armed forces of the United States or by police officers, peace officers, or law enforcement officers authorized by the properly constituted authorities for the enforcement of law or ordinances; nor shall this section prohibit the use or possession of such sniperscope when used solely for scientific research or educational purposes.

§469. [Knowingly making, duplicating, or possessing etc., key to premises owned by state or subdivision]

Any person who knowingly makes, duplicates, causes to be duplicated, or uses, or attempts to make, duplicate, cause to be duplicated or use, or has in his possession any key to a building or other area owned, operated, or controlled by the State of California, any state agency, board, or commission, a county, city, or any public school or community college district without authorization from the person in charge of such building or area or his designated representative and with knowledge of the lack of such authorization is guilty of a misdemeanor.

§ 471. **Making false entries in records or returns.** Every person who, with intent to defraud another, makes, forges, or alters any entry in any book of records, or any instrument purporting to be any record or return specified in the preceding section, is guilty of forgery.

§484. [Theft defined: Stealing or misappropriation of property: Obtaining money, labor property or credit by fraud or false report: Determination of value of property or services: Representation or pretense deemed continuing: Charging date of offense: Hiring employee without advising of unpaid labor claim or judgment]

(a) Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others to report falsely of his wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft. In determining the value of the property obtained, for the purposes of this section, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there be no contract price, the reasonable and going wage for the service rendered shall govern. For the purposes of this section, any false or fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service received as a result thereof, and the complaint, information or indictment may charge that the crime was committed on any date during the particular period in question. The hiring of any additional employee or employees without advising each of them of every labor claim due and unpaid and every judgment that the employer has been unable to meet shall be prima facie evidence of intent to defraud.

(b) Except as provided in Section 10855 of the Vehicle Code, intent to commit theft by fraud is presumed if one who has leased or rented the personal property of another pursuant to a written contract fails to return the personal property to its owner within 20 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented, or if one presents to the owner identification which bears a false or fictitious name or address for the purpose of obtaining the lease or rental agreement.

(c) The presumptions created by subdivision (b) are presumptions affecting the burden of producing evidence.

(d) Within 30 days after the lease or rental agreement has expired, the owner shall make written demand for return of the property so leased or rented. Notice addressed and mailed to the lessee or renter at the address given at the time of the making of the lease or rental agreement and to any other known address shall constitute proper demand. Where the owner fails to make such written demand the presumption created by subdivision (b) shall not apply.

§485. [Appropriation of lost property by finder: When theft]. One who finds lost property under circumstances which give him knowledge of or means of inquiry as to the true owner, and who appropriates such property to his own use, or to the use of another person not entitled thereto, without first making reasonable and just efforts to find the owner and to restore the property to him, is guilty of theft.

§489. [Punishment of grand theft]. Grand theft is punishable by imprisonment in the county jail for not more than one year or in the state prison for not more than 10 years.

§490. [Punishment of petty theft]. Petty theft is punishable by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or both.

§518. [Extortion defined]. Extortion is the obtaining of property from another, with his consent, or the obtaining of an official act of a public officer, induced by a wrongful use of force or fear, or under color of official right.

§520. [Punishment for extortion in certain cases]. Every person who extorts any money or other property from another, under circumstances not amounting to robbery, by means of force, or any threat, such as is mentioned in the preceding section, is punishable by imprisonment in the State prison for not less than one nor more than ten years.

§524. [Attempts to extort money or property: Punishment]. Every person who attempts, by means of any threat, such as is specified in section 519 of this code, to extort money or other property from another is punishable by imprisonment in the county jail not longer than one year or in the state prison not exceeding five years, or by fine not exceeding five thousand dollars, or by both such fine and imprisonment.

§537e. [Purchase, possession or sale of certain articles from which serial number or identification mark has been removed: Exception]

(a) Any person who knowingly buys, sells, receives, disposes of, conceals, or has in his possession a radio, piano, phonograph, sewing machine, washing machine, typewriter, adding machine, comptometer, bicycle, safe or vacuum cleaner, dictaphone, watch, watch movement, watch case, or any mechanical or electrical device, appliance, contrivance, material, piece of apparatus or equipment, from which the manufacturer's name plate, serial number or any other distinguishing number or identification mark has been removed, defaced, covered, altered or destroyed, is guilty of a misdemeanor.

(b) When property described in subdivision (a) comes into the custody of a peace officer it shall become subject to the provision of Chapter 12 (commencing with Section 1407), Title 10 of Part 2, relating to the disposal of stolen or embezzled property. Property subject to this section shall be considered stolen or embezzled property for the purposes of that chapter, and prior to being disposed of, shall have an identification mark imbedded or engraved in, or permanently affixed to it.

(c) This section does not apply to those cases or instances where any of the changes or alterations enumerated in subdivision (a) have been customarily made or done as an established practice in the ordinary and regular conduct of business, by original manufacturer, or by his duly appointed direct representative, or under specific authorization from the original manufacturer.

§ 594. Malicious mischief in general, defined

Every person who maliciously injures or destroys any real or personal property not his own, in cases otherwise than such as are specified in this code, is guilty of a misdemeanor.

§ 602. [Trespasses upon lands enumerated]

Every person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another.

(b) Carrying away any kind of wood or timber lying on such lands.

(c) Maliciously injuring or severing from the freehold of another anything attached thereto, or the produce thereof.

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant thereof, any earth, soil, or stone.

(e) Digging, taking, or carrying away from land in any city or town laid down on the map or plan of such city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil or stone.

(f) Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town or village, or upon any property of any person, by the state or by an automobile association, which sign, signboard or notice is intended to indicate or designate a road or roads, or a highway or highways, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention thereto.

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or being on any such lands, whether covered by water or not, without the license of the owner or legal occupant thereof; or destroying or removing, or causing to be removed or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any such lands.

(h) Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open without the written permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property.

(i) Building fires upon any lands owned by another where signs forbidding trespass are displayed at intervals not greater than one mile along the exterior boundaries and at all roads and trails entering such lands, without first having obtained written permission from the owner of such lands or his agent, or the person in lawful possession thereof.

(j) Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of such land, his agent or by the person in lawful possession.

(k) Entering any lands under cultivation or enclosed by fence, belonging to, or occupied by, another, or entering upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering such lands without the written permission of the owner of such land, his agent or of the person in lawful possession, and

(1) Refusing or failing to leave such lands immediately upon being requested by the owner of such land, his agent or by the person in lawful possession to leave such lands, or

(2) Tearing down, mutilating or destroying any sign, signboard, or notice forbidding trespass or hunting on such lands, or

(3) Removing, injuring, unlocking, or tampering with any lock on any gate on or leading into such lands, or

(4) Discharging any firearm.

(l) Entering and occupying real property or structures of any kind without the consent of the owner, his agent, or the person in lawful possession thereof.

(m) Driving any vehicle, as defined in Section 670 of the Vehicle Code, upon real property belonging to or lawfully occupied by another and known not to be open to the general public, without the consent of the owner, his agent, or the person in lawful possession thereof.

(n) Refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by a peace officer and the owner, his agent, or the person in lawful possession thereof.

(o) Entering upon any lands declared closed to entry as provided in Section 4256 of the Public Resources Code; provided, such closed areas shall have been posted with notices declaring such closure, at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through such lands.

(p) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly employed guard, watchman, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances are such as to indicate to a reasonable man that such person has no apparent lawful business to pursue.

§626.8. [Entry of school building etc. by person not on lawful business: Disruption: Refusal or re-entry after request to leave: Procedure: Punishment]

(a) Any person who comes into any school building or upon any school ground, or street, sidewalk, or public way adjacent thereto, without lawful business thereon, and whose presence or acts interfere with the peaceful conduct of the activities of such school or disrupt the school or its pupils or school activities, and who remains there, or who reenters or comes upon such place within 72 hours, after being asked to leave by the chief administrative official of that school or, in the absence of the chief administrative official, the person acting as the chief administrative official, or by a member of the security patrol of the school district who has been given authorization, in writing, by the chief administrative official of that school to act as his agent in performing this duty, is guilty of misdemeanor and shall be punished as follows:

(1) Upon a first conviction by a fine of not exceeding five hundred dollars ($500), by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of any offense defined in this chapter or Section 415.5 by imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both such imprisonment and a fine of not exceeding five hundred dollars ($500), and he shall not be released on probation, parole, or any other basis until he has served not less than 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both such imprisonment and a fine of not exceeding five hundred dollars ($500), and he shall not be released on probation, parole, or any other basis until he has served not less than 90 days.

(b) As used in this section, "lawful business" means a reason for being present upon school property which is not otherwise prohibited by statute, by ordinance, or by any regulation adopted pursuant to statute or ordinance.

Section 6. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

§626.9. [Bringing firearms into prohibited areas: Punishment]

Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any such officer to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer, a member of the military forces of this state or the United States who is engaged in the performance of his duties, or a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, who brings or possesses a firearm upon the grounds of any public school, including the University of California and the state university and colleges or within any public school, including the University of California and the state colleges, unless it is with the permission of the school authorities, shall be punished by imprisonment in the county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both such imprisonment and fine, or by imprisonment in the state prison for a period of not more than five years.

§626.10. (a) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, any person summoned by any such officer to assist in making arrests or preserving the peace while he is actually engaged in assisting any such officer, or a member of the military forces of this state or the United States who is engaged in the performance of his duties, who brings or possesses any dirk, dagger, knife having a blade longer than 3-1/2 inches, folding knife with a blade that locks into place, or razor with an unguarded blade upon the grounds of, or within, any public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, is guilty of a misdemeanor.

(b) Subdivision (a) shall not apply to any person who brings or possesses a knife having a blade longer than 3-1/2 inches or razor with an unguarded blade upon the grounds of, or within, a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, at the direction of a certificated or classified employee of the school for use in a school-sponsored activity or class.

(c) Subdivision (a) shall not apply to any person who brings or possesses a knife having a blade longer than 3-1/2 inches or razor with an unguarded blade upon the grounds of or within, a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, for a lawful purpose within the scope of his employment.

(d) Any certificated or classified employee of a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, may seize any of the weapons described in subdivision (a) from the possession of any person upon the grounds of, or within, the school if he knows or has reasonable cause to know the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

Section 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there by any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes of law relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

Section 3. This act shall become operative on July 1, 1974.

Section 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

There is widespread violence and use of knives, razors, and similar devices upon the grounds of and within, the public schools of this state providing instruction in kindergarten and grades 1 through 12, inclusive. In order that the protection afforded by this act to pupils and other persons on the grounds of and within, such public schools may be provided at the commencement of the 1974-75 academic year and that sufficient time may be available prior thereto, for proper administrative preparation, it is necessary that this act take effect immediately.

§647. [Disorderly conduct: Punishment:]

Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) Who solicits or who engages in any act of prostitution. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.

(c) Who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.

(d) Who loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

(e) Who loiters or wanders upon the streets or from place to place without apparent reason or business and who refuses to identify himself and to account for his presence when requested by any peace officer so to do, if the surrounding circumstances are such as to indicate to a reasonable man that the public safety demands such identification.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, toluene, any substance defined as a poison in Schedule D of Section 4160 of the Business and Professions Code, or any combination of any intoxicating liquor, drug, toluene, or any such poison, in such a condition that he is unable to exercise care for his own safety or the safety of others, or by reason of his being under the influence of intoxicating liquor, any drug, toluene, any substance defined as a poison in Schedule D of Section 4160 of the Business and Professions Code, or any combination of intoxicating liquor, any drug, toluene, or any such poison, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(ff) When a person has violated subdivision (f) of this section, a peace officer, if he is reasonably able to do so, shall place the person, or cause him to be placed, in civil protective custody. Such person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force which would be lawful were he effecting an arrest for a misdemeanor without a warrant. No person who has been placed in civil protective custody shall thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to such placement. This subdivision shall not apply to the following persons:

(1) Any person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) Any person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f) of this section.

(3) Any person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(g) Who loiters, prowls, or wanders upon the private property of another, in the nighttime, without visible or lawful business with the owner or occupant thereof.

(h) Who, while loitering, prowling, or wandering upon the private property of another, in the nighttime, peeks in the door or window of any inhabited building or structure located thereon, without visible or lawful business with the owner or occupant thereof.

(i) Who lodges in any building, structure, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control thereof.

In any accusatory pleading charging a violation of subdivision (b) of this section, if the defendant has been once previously convicted of a violation of the subdivision, the previous conviction shall be charged in the accusatory pleading, and, if the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the defendant shall be imprisoned in the county jail for a period of not less than 45 days and shall not be eligible for release upon completion of sentence, on parole, or on any other basis until he has served a period of not less than 45 days in the county jail. In no such case shall the trial court grant probation or suspend the execution of sentence imposed upon the defendant.

In any accusatory pleading charging a violation of subdivision (b) of this section, if the defendant has been previously convicted two or more times of a violation of the subdivision, each such previous conviction shall be charged in the accusatory pleading, and, if two or more of such previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall be imprisoned in the county jail for a period of not less than 90 days and shall not be eligible for release upon completion of sentence, on parole, or any other basis until he has served a period of not less than 90 days in the county jail. In no such case shall the trial court grant probation or suspend the execution of sentence imposed upon the defendant.

§ 647a. [Annoying or molesting children]

Every person who annoys or molests any child under the age of 18 is a vagrant and is punishable upon first conviction by a fine not exceeding five hundred dollars ($500) or by imprisonment in the county jail for not exceeding six months or by both such fine and imprisonment and is punishable upon the second and each subsequent conviction or upon the first conviction after a previous conviction under Section 288 of this code by imprisonment in the state prison for not less than one year.

§ 647b. [Loitering about, or molesting persons in attendance at, school furnishing courses to adults]

Every person who loiters about any school in which adults are in attendance at courses established pursuant to Chapter 5.5 (commencing with Section 5701) of Division 6 of the Education Code, and who annoys or molests any person in attendance therein shall be punished by a fine of not exceeding five hundred dollars ($500) or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.

§ 647c. [Wilful and malicious obstruction of thoroughfares and public places: Local regulations]

Every person who willfully and maliciously obstructs the free movement of any person on any street, sidewalk, or other public place or on or in any place open to the public is guilty of a misdemeanor.

Nothing in this section affects the power of a county or a city to regulate conduct upon a street, sidewalk, or other public place or on or in a place open to the public.

§650-1/2. [Injuring person or property: Act against public peace, health or decency: Misuse of another's name: False personation]

A person who wilfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace, or health, or which openly outrages public decency, or who wilfully and wrongfully in any manner, verbal or written, uses another's name for accomplishing lewd or licentious purposes, whether such purposes are accomplished or not, or who wilfully and wrongfully uses another's name in any manner that will affect, or have a tendency to affect the moral reputation of the person whose name is used, generally, or in the estimation of the person or persons to whom it is so used, or who with intent of accomplishing any lewd or licentious purpose, whether such purpose is accomplished or not, personifies any person other than himself, or who causes or procures any other person or persons to identify him, or to give assurance that he is any other person that himself to aid or assist him to accomplish any lewd or licentious purpose, for which no other punishment is expressly prescribed by this code, is guilty of a misdemeanor.

§ 653g. [Loitering about schools or other places attended by children]

Every person who loiters about any school or public place at or near which children attend or normally congregate is a vagrant, and is punishable by a fine of not exceeding five hundred dollars ($500) or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.

As used in this section, "loiter" means to delay, to linger, or to idle about any such school or public place without a lawful purpose for being present.

§ 653k. [Carrying, sale, etc., of switchblade-knife]

Every person who carries upon his person, and every person who sells, offers for sale, exposes for sale, loans, transfers, or gives to any other person a switch-blade knife having a blade over two inches in length is guilty of a misdemeanor.

For the purposes of this section a "switch-blade knife" is a knife having the appearance of a pocketknife, and shall include a spring-blade knife, snap-blade knife, gravity knife or any other similar type knife; the blade or blades of which are two or more inches long and which can be released automatically by a flick of a button, pressure on the handle, flip of the wrist or other mechanical device, or is released by the weight of the blade or by any type of mechanism whatsoever.

§653m. [Making annoying, etc., telephone communications]

(a) Every person who with intent to annoy telephones another and addresses to or about such other person any obscene language or addresses to such other person any threat to inflict injury to the person or property of the person addressed or any member of his family, is guilty of a misdemeanor.

(b) Every person who makes a telephone -all with intent to annoy another and without disclosing his true identity to the persons answering the telephone is, whether or not conversation ensues from making the telephone call, guilty of a misdemeanor.

(c) Any offense committed by use of a telephone as herein set out may be deemed to have been committed at either the place at which the telephone call or calls were made or at the place where the telephone call or calls were received.

§ 654. Acts made punishable by different provisions of this code: [Effect of acquittal or conviction: Punishments substituted on second conviction]

An act or omission which is made punishable in different ways by different provisions of this code may be punished under either of such provisions, but in no case can it be punished under more than one; an acquittal or conviction and sentence under either one bars a prosecution for the same act or omission under any other. In the cases specified in sections six hundred and forty-eight, six hundred and sixty-seven, and six hundred and sixty-eight, the punishments therein prescribed must be substituted for those prescribed for a first offense, if the previous conviction is charged in the indictment and found by the jury.

§ 686. [Rights of defendant: Speedy and public trial: Counsel: Production and confrontal of witnesses: Exceptions]

In criminal action the defendant is entitled:

1. To a speedy and public trial.
2. To be allowed counsel as in civil actions, or to appear and defend in person and with counsel, except that in a capital case he shall be represented in court by counsel at all stages of the preliminary and trial proceedings.
3. To produce witnesses on his behalf and to be confronted with the witnesses against him, in the presence of the court, except that:

(a) Hearsay evidence may be admitted to the extent that it is otherwise admissible in a criminal action under the law of this state.

(b) The deposition of a witness taken in the action may be read to the extent that it is otherwise admissible under the law of this state.

§ 726. [Magistrates and officers to command unlawful assembly or rioters to disperse]

Where any number of persons, whether armed or not, are unlawfully riotously assembled, the sheriff of the county and his deputies, the officials governing the town or city, or the judges of the justice courts and constables thereof, or any of them, must go among the persons assembled, or as near to them as possible, and command them, in the name of the people of the State, immediately to disperse.

§ 727. To arrest rioters if they do not disperse: [Aid of citizens]

If the persons assembled do not immediately disperse, such magistrates and officers must arrest them, and to that end may command the aid of all persons present or within the county.

§ 777. [Jurisdiction: Offenses committed in State]

Every person is liable to punishment by the laws of this State, for a public offense committed by him therein, except where it is by law cognizable exclusively in the courts of the United States; and except as otherwise provided by law the jurisdiction of every public offense is in any competent court within the jurisdictional territory of which it is committed.

§ 833. [Search of person for dangerous weapons: Retention or return of weapon: Arrest]

A peace officer may search for dangerous weapons any person whom he has legal cause to arrest, whenever he has reasonable cause to believe that the person possesses a dangerous weapon. If the officer finds a dangerous weapon, he may take and keep it until the completion of the questioning, when he shall either return it or arrest the person. The arrest may be for the illegal possession of the weapon.

§ 834. Arrest defined: By whom made

An arrest is taking a person into custody, in a case and in the manner authorized by law. An arrest may be made by a peace-officer or by a private person.

§ 834a. [Duty of person to refrain from using force or weapon to resist arrest]

If a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he is being arrested by a peace officer, it is the duty of such person to refrain from using force or any weapon to resist such arrest.

§ 835. [How arrest made and what restraint allowed]

An arrest is made by an actual restraint of the person, or by submission to the custody of an officer. The person arrested may be subjected to such restraint as is reasonable for his arrest and detention.

§ 835a. [Right of arresting officer to use reasonable force: Effect thereon of resistance by person arrested: Retreat of officer not necessary]

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance.

A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

§ 836. [Arrests by peace officers: Arrest under warrant or without warrant]

A peace officer may make an arrest in obedience to a warrant, or may, pursuant to the authority granted him by the provisions of Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, without a warrant, arrest a person:

1. Whenever he has reasonable cause to believe that the person to be arrested has committed a public offense in his presence.

2. When a person arrested has committed a felony, although not in his presence.

3. Whenever he has reasonable cause to believe that the person to be arrested has committed a felony, whether or not a felony has in fact been committed.

§ 836.5. [Arrests by public officers and employees: Arrest without warrant: Liability for false arrest or false imprisonment: Use of reasonable force: Notice to appear and release of arrested person: Local officers and employees]

(a) A public officer or employee, when authorized by ordinance, may arrest a person without a warrant whenever he has reasonable cause to believe that the person to be arrested has committed a misdemeanor in his presence which is a violation of a statute or ordinance which such officer or employee has the duty to enforce.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any public officer or employee acting pursuant to subdivision (a) and within the scope of his authority for false arrest or false imprisonment arising out of any arrest which is lawful or which the public officer or employee, at the time of the arrest, had reasonable cause to believe was lawful. No such officer or employee shall be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or overcome resistance.

(c) In any case in which a person is arrested pursuant to subdivision (a) and the person arrested does not demand to be taken before a magistrate, the public officer or employee making the arrest shall prepare a written notice to appear and release the person on his promise to appear, as prescribed by Chapter 5C (commencing with Section 853.6) of this title. The provisions of such chapter shall thereafter apply with reference to any proceeding based upon the issuance of a written notice to appear pursuant to this authority.

(d) The governing body of a local agency, by ordinance, may authorize those of its officers and employees who have the duty to enforce a statute or ordinance to arrest persons for violations of such statute or ordinance as provided in subdivision (a).

(e) For the purpose of this section, "ordinance" includes an order, rule, or regulation of any air pollution control district.

§ 837. Arrests by private persons: [Circumstances authorizing]

A private person may arrest another:

1. For a public offense committed or attempted in his presence.

2. When the person arrested has committed a felony, although not in his presence.

3. When a felony has been in fact committed, and he has reasonable cause for believing the person arrested to have committed it.

§ 838. Magistrates may order arrest [for offense in presence]

A magistrate may orally order a peace officer or private person to arrest anyone committing or attempting to commit a public offense in the presence of such magistrate.

§ 839. Persons making arrest may summon assistance

Any person making an arrest may orally summon as many persons as he deems necessary to aid him therein.

§ 840. [When arrest may be made: Felony: Misdemeanor]

An arrest for the commission of a felony may be made on any day and at any time of the day or night. An arrest for the commission of a misdemeanor or an infraction cannot be made between the hours of 10 o'clock p.m. of any day and 7 o'clock a.m. of the succeeding day, unless:

(1) The arrest is made without a warrant pursuant to Section 836 or 837.

(2) The arrest is made in a public place.

(3) The arrest is made when the person is in custody pursuant to another lawful arrest.

(4) The arrest is made pursuant to a warrant which, for good cause shown, directs that it may be served at any time of the day or night.

§ 841. [Informing person arrested]

The person making the arrest must inform the person to be arrested of the intention to arrest him, of the cause of the arrest, and the authority to make it, except when the person making the arrest has reasonable cause to believe that the person to be arrested is actually engaged in the commission of or an attempt to commit an offense, or the person to be arrested is pursued immediately after its commission, or after an escape.

The person making the arrest must, on request of the person he is arresting, inform the latter of the offense for which he is being arrested.

§ 842. [Necessity that warrant be in possession of arresting officer: When warrant must be shown]

An arrest by a peace officer acting under a warrant is lawful even though the officer does not have the warrant in his possession at the time of the arrest, but if the person so requests it, the warrant shall be shown to him as soon as practicable.

§ 843. What force may be used [to effect arrest under warrant]

When the arrest is being made by an officer under the authority of a warrant, after information of the intention to make the arrest, if the person to be arrested either flees or forcibly resists, the officer may use all necessary means to effect the arrest.

§ 849. [Arrest without warrant: Person arrested to be taken before nearest magistrate: Complaint to be laid: Right of peace officer to release person arrested from custody]

(a) When an arrest is made without a warrant by a peace officer or private person, the person arrested, if not otherwise released, shall, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the offense is triable, and a complaint stating the charge against the arrested person shall be laid before such magistrate.

(b) Any peace officer may release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever:

(1) He is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested.

(2) The person arrested was arrested for intoxication only, and no further proceedings are desirable.

(3) The person was arrested only for being under the influence of a narcotic, drug, or restricted dangerous drug and such person is delivered to a facility or hospital for treatment and no further proceedings are desirable.

(c) Any record of arrest of a person released pursuant to paragraphs (1) and (3) of subdivision (b) shall include a record of release. Thereafter, such arrest shall not be deemed an arrest, but a detention only.

§ 1326. [Subpoena defined: Officers authorized to issue]

The process by which the attendance of a witness before a court or magistrate is required is a subpoena. It may be signed and issued by any of the following:

(1) A magistrate before whom a complaint is laid or his clerk, the district attorney or his investigator, or the public defender or his investigator, for witnesses in the state.

(2) The district attorney, his investigator, or, upon request of the grand jury, any judge of the superior court, for witnesses in the state, in support of an indictment or information, to appear before the court in which it is to be tried.

(3) The district attorney or his investigator, the public defender or his investigator, the clerk of the court in which a criminal action is to be tried, or, if there is no clerk, the judge of the court. The clerk or judge shall, at any time, upon application of the defendant, and without charge, issue as many blank subpoenas, subscribed by him, for witnesses in the state, as the defendant may require.

(4) The attorney of record for the defendant.

§ 1328. Subpoena, by whom and how served

A subpoena may be served by any person, but a peace officer must serve in his county any subpoena delivered to him for service, either on the part of the people or of the defendant, and must, without delay, make a written return of the service, subscribed by him, stating the time and place of service. The service is made by delivering a copy of the subpoena to the witness personally.

Whenever any peace officer designated in Section 830 is required as a witness before any court or magistrate in any action or proceeding in connection with a matter regarding an event or transaction which he has perceived or investigated in the course of his duties, a subpoena requiring his attendance may be served either by delivering a copy to such peace officer personally or by delivering two copies to his immediate superior or agent designated by his immediate superior to receive such service. If service is made upon the immediate superior or agent designated by the immediate superior, the immediate superior or such agent shall deliver a copy of the subpoena to the peace officer as soon as possible and in no event later than such time as will enable the peace officer to comply with the subpoena.

If the immediate superior or his designated agent upon whom service is attempted to be made knows he will be unable to deliver a copy of the subpoena to the peace officer within such time as will allow the peace officer to comply with the subpoena, such immediate superior or agent may refuse to accept service of process and is excused from any duty, liability, or penalty arising in connection with such service, upon notifying the server of such fact.

If an immediate superior or his agent is tendered service of a subpoena less than five working days prior to the date of hearing, and he is not reasonably certain he can complete the service, he may refuse acceptance.

If an immediate superior or agent upon whom service has been made, subsequently determines that he will be unable to deliver a copy of the subpoena to the peace officer within such time as will allow the peace officer to comply with the subpoena, the immediate superior or agent shall notify the server or his office or agent not less than 48 hours prior to the hearing date indicated on the subpoena, and is thereby excused from any duty, liability, or penalty arising because of his failure to deliver a copy of the subpoena to the peace officer. The server, so notified, is therewith responsible for preparing the written return of service and for notifying the originator of the subpoena if required.

§ 1329. [Fees and expenses of witnesses in criminal proceedings: Payment]

(a) When a person attends before a magistrate, grand jury, or court, as a witness in a criminal case, whether upon a subpoena or in pursuance of an undertaking, or voluntarily, the court, at its discretion, if the attendance of the witness be upon a trial may by an order upon its minutes, or in any criminal proceeding, by a written order, direct the county auditor to draw his warrant upon the county treasurer in favor of such witness for witness' fees at the rate of twelve dollars ($12) for each day's actual attendance and for a reasonable sum to be specified in the order for the necessary expenses of such witness. The court, in its discretion, may make an allowance under this section, or under Chapter 1 (commencing with Section 68070), Title 8, of the Government Code, as it may deem appropriate. The allowances are county charges.

(b) The court, in its discretion, may authorize payment to such a witness, if he is employed and if his salary is not paid by his employer during the time he is absent from his employment because of being such a witness, of a sum equal to his gross salary for such time, but such sum shall not exceed eighteen dollars ($18) per day. The sum is a county charge.

A person compensated under the provisions of this subdivision may not receive the payment of witness' fees as provided for in subdivision (a).

§ 1330. [Witness residing or served out of the county: How compelled to attend]

No person is obliged to attend as a witness before a court or magistrate out of the county where the witness resides, or is served with the subpoena, unless the distance be less than 150 miles from his place of residence to the place of trial, or unless the judge of the court in which the offense is triable, or a justice of the Supreme Court, or a judge of a superior court, or, in the case of a minor concerning whom a petition has been filed pursuant to Article 7 (commencing with Section 650) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, by the judge of the juvenile court hearing the petition, upon an affidavit of the district attorney or prosecutor, or of the defendant, or his counsel, or in the case involving a minor in whose behalf a petition has been filed in the juvenile court, of the probation officer approving the filing of such petition or of any party to such action, or his counsel, stating that he believes the evidence of the witness is material, and his attendance at the examination, trial, or hearing is material and necessary, shall endorse on the subpoena an order for the attendance of the witness.

When a subpoena duces tecum is duly issued according to any other provision of law and is served upon a custodian of records or other qualified witness as provided in Article 4 (commencing with Section 1560) of Chapter 2 of Division 11 of the Evidence Code, and his personal attendance is not required by the terms of the subpoena, the limitations of this section shall not apply.

§ 1331. Disobedience to subpoena, etc.: [Punishment: Civil liability]

Disobedience to a subpoena, or a refusal to be sworn or to testify as a witness, may be punished by the court or magistrate as a contempt. A witness disobeying a subpoena issued on the part of the defendant, unless he show good cause for his nonattendance, is liable to the defendant in the sum of one hundred dollars, which may be recovered in a civil action.

§ 1331.5. [Agreement as to time for appearance by person subpoenaed: Contempt punishment: Affidavit and continuance]

Any person who is subpoenaed to appear at a session of court, or at the trial of an issue therein, may, in lieu of appearance at the time specified in the subpoena, agree with the party at whose request the subpoena was issued, to appear at another time or upon such notice as may be agreed upon. Any failure to appear pursuant to such agreement may be punished as a contempt, and a subpoena shall so state. The facts establishing such agreement and the failure to appear may be shown by the affidavit of any person having personal knowledge of the facts and the court may grant such continuance as may be appropriate.

§ 3024. [Minimum sentences for persons armed with deadly weapons or previously convicted: Application of minimum penalties]

The following shall be the minimum term of sentence and imprisonment in certain cases, notwithstanding any other provisions of this code, or any provision of law specifying a lesser sentence:

(a) For a person not previously convicted of a felony, but armed with a deadly weapon either at the time of his commission of the offense, or a concealed deadly weapon at the time of his arrest, two years;

(b) For a person previously convicted of a felony either in this State or elsewhere, and armed with a deadly weapon, either at the time of his commission of the offense, or a concealed deadly weapon at the time of his arrest, four years.

(c) For a person previously convicted of a felony either in this State or elsewhere, but not armed with a deadly weapon at the time of his commission of the offense, or a concealed deadly weapon at the time of his arrest, two years;

(d) For a person convicted at one trial of more than one felony, and upon whom are imposed cumulative or consecutive sentences the aggregate of the minimum terms of which exceed 10 years, 10 years;

(e) Such minimum penalties shall apply only when such possession of a deadly weapon or previous conviction of a felony as above specified has been charged and admitted or found to be true in the manner provided by law and the minumum terms specified in paragraphs (a) and (b) shall not apply in those cases wherein the property stolen or sought to be stolen is an animal or animals and the manner in which such property is taken or attempted to be taken constitutes the crime of theft and the weapon used during the commission thereof is not used or intended to be used against a person or to resist arrest.

(f) The words "deadly weapon" as used in this section are hereby defined to include any instrument or weapon of the kind commonly known as a blackjack, slung shot, billy, sandclub, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade and any metal pipe or bar used or intended to be used as a club.

(g) For the purpose of determining whether or not a conviction for public offense in another jurisdiction is a previous felony conviction under this section, the word "felony" is defined as a public offense which, if committed in this State, could have been punished as a felony under the laws of this State. Where such an offense is punishable in this state either as a felony or as a misdemeanor, it may be deemed a felony for the purposes of this section.

§ 11161. [Same: Report by physician or surgeon]

Every physician or surgeon who has under his charge or care any person suffering from any wound or injury inflicted in the manner specified in Section 11160 shall make a report of the kind specified in this article to the appropriate officers named in Section 11160.

§11161.5. [Same: Nonaccidental injuries to children]

(a) In any case in which a minor is brought to a physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, or religious practitioner for diagnosis, examination or treatment, or is under his charge or care, or in any case in which a minor is observed by any registered nurse when in the employ of a public health agency, school, or school district and when no physician and surgeon, resident, or intern is present, by any superintendent, any supervisor of child welfare and attendance, or any certificated pupil personnel employee of any public or private school system or any principal of any public or private school, by any teacher of any public or private school, by any licensed day care worker, by an administrator of a public or private summer day camp or child care center, or by any social worker, and it appears to the physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, religious practioner, registered nurse, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, school principal, teacher, licensed day care worker, by an administrator of a public or private summer day camp or child care center or social worker from observation of the minor that the minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person that the minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon the minor he shall report such fact by telephone and in writing, within 36 hours, to both the local police authority having jurisdiction and to the juvenile probation department; or, in the alternative, either to the county welfare department, or to the county health department. The report shall state, if known, the name of the minor, his whereabouts and the character and extent of the injuries or molestation.

Whenever it is brought to the attention of a director of a county welfare department or health department that a minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that a minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon a minor, he shall file a report without delay with the local police authority having jurisdiction and to the juvenile probation department as provided in this section.

No person shall incur any civil or criminal liability as a result of making any report authorized by this section unless it can be proven that a false report was made with malice.

Copies of all written reports received by the local police authority shall be forwarded to the Department of Justice. If the records of the Department of Justice maintained pursuant to Section 11110 reveal any reports of suspected infliction of physical injury upon, sexual molestation of, or infliction of any injury prohibited by the terms of Section 273a upon the same minor or any other minor in the same family by other than accidental means, or if the records reveal any arrest or conviction in other localities for a violation of Section 273a inflicted upon the same minor or any other minor in the same family, or if the records reveal any other pertinent information with respect to the same minor or any other minor in the same family, the local reporting agency and the local juvenile probation department shall be immediately notified of the fact.

Reports and other pertinent information received from the department shall be made available to: any licensed physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, or religious practitioner with regard to his patient or client; any director of a county welfare department, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee or school principal having a direct interest in the welfare of the minor; and any probation department, juvenile probation department, or agency offering child protective services.

(b) If the minor is a person specified in Section 600 of the Welfare and Institutions Code and the duty of the probation officer has been transferred to the county welfare department pursuant to Section 576.5 of the Welfare and Institutions Code and the report is made to the local police authority having jurisdiction, then the report required by subdivision (a) of this section shall be made to the county welfare department.

(c) As used in this section, "minor" means a person 12 years of age or under. (Effective 1/1/67)

§11162. [Violation of article: Punishment]

Any person, firm or corporation violating any provision of this article is guilty of a misdemeanor and is punishable by imprisonment in the county jail not exceeding six months or by a fine not exceeding five hundred dollars ($500), or by both.

§ 11400. [Definition]

"Criminal syndicalism" as used in this article means any doctrine or precept advocating, teaching or aiding and abetting the commission of crime, sabotage (which word is hereby defined as meaning wilful and malicious physical damage or injury to physical property), or unlawful acts of force and violence or unlawful methods of terrorism as a means of accomplishing a change in industrial ownership or control, or effecting any political change.

§ 12001. ["Pistol": "Revolver": "Firearms capable of being concealed upon the person"]

"Pistol," "revolver," and "firearm capable of being concealed upon the person" as used in this chapter shall apply to and include any device, designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and which has a barrel less than 12 inches in length. "Pistol," "revolver," and "firearm capable of being concealed upon the person" as used in Sections 12021, 12072, and 12073 include the frame or receiver of any such weapon.

§ 12001.5. ["Sawed-off shotguns"]

Except as provided in Section 12020, nothing in this chapter shall be construed as authorizing the manufacture, importation into the state, keeping for sale, offering for sale, or giving, lending, or possession of any sawed-off shotgun, as defined in Section 12020.

§ 12020. [Manufacture, sale, possession, etc., of certain weapons]

(a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandclub, sandbag, sawed-off shotgun, or metal knuckles, or who carries concealed upon his person any explosive substance, other than fixed ammunition or who carries concealed upon his person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison for not less than one year nor more than five years.

(b) Subdivision (a) shall not apply to any of the following:

(1) The manufacture, possession, transportation or use, with blank cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when such is authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and is not in violation of federal law.

(2) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(3) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(c) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison for not less than one year nor more than five years.

(d) (1) As used in this section a "sawed-off shotgun" means a shotgun having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

§ 12021.5. [Prohibition against minor's possession of concealable firearm, in absence of permission or presence of parent or guardian]

A minor may not possess a concealable firearm unless he has the written permission of his parent or guardian to have such firearm or is accompanied by his parent or guardian while he has such firearm in his possession. Violation of this section is a misdemeanor.

§ 12025. [Carrying certain firearms without license]

Except as otherwise provided in this chapter, any person who carries concealed upon his person or concealed within any vehicle which is under his control or direction any pistol, revolver, or other firearm capable of being concealed upon the person without having a license to carry such firearm as provided in this chapter is guilty of a misdemeanor, and if he has been convicted previously of any felony or of any crime made punishable by this chapter, is guilty of a felony.

Firearms carried openly in belt holsters are not concealed within the meaning of this section, nor are knives which are carried openly in sheaths suspended from the waist of the wearer.

§ 12029. [Same: Blackjacks, slungshots, billies, sandclubs, sandbags, metal knuckles, and sawed-off shotguns]

Except as provided in Section 12020, blackjacks, slungshots, billies, nunchakus, sandclubs, sandbags, metal knuckles, any instrument described in subdivision (c) of Section 12020, and sawed-off shotguns as defined in Section 12020 are nuisances. Such weapons shall be subject to confiscation and summary destruction whenever found within the state. Such weapons shall be destroyed in the same manner as other weapons described in Section 12028, except that upon the certification of a judge or of the district attorney that the ends of justice will be subserved thereby, such weapon shall be preserved until the necessity for its use ceases.

§ 12031. [Carrying loaded firearm in public place or on public street: Persons exempt: Examination of firearms by peace officers: Effect of refusal to allow examination: "Prohibited area": When firearm deemed loaded: Effect and intent of provisions]

(a) Except as provided in subdivision (b), every person who carries a loaded firearm on his person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.3, whether active or honorably retired, other duly appointed peace officers, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer.

The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at anytime subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a weapon as provided in this paragraph. Any peace officer who has been honorably retired shall be issued an identification certificate containing an endorsement by the issuing agency indicating whether or not the retired peace officer has the privilege to carry a weapon pursuant to this paragraph.

(2) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(3) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(4) Persons who are using target ranges for the purpose of practice shooting with a firearm, or who are members of shooting clubs while hunting on the premises of such clubs.

(5) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (i) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (ii) must be not less than 18 years of age nor more than 40 years of age, (iii) must possess physical qualifications prescribed by the commission, and (iv) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(6) The carrying of concealable weapons by persons who are authorized to carry such weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4 of the Penal Code.

(7) Private investigators, private patrol operators, and operators of a private patrol service who are licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(8) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the

course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry such weapons, or by persons who are authorized to carry such weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to such section.

(9) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(10) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(11) Uniformed security guards, regularly employed and compensated as such by persons engaged in any lawful business, while actually engaged in protecting and preserving the property of their employers.

(12) Employees or agents of a burglar alarm company while responding to an alarm, or such employees or agents, when in uniform, while on duty for the purpose of responding to an alarm. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring local licensing of those persons covered under this paragraph.

(c) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to the provisions of this section constitutes probable cause for arrest for violation of this section.

(d) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(e) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(f) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by such person for lawful purposes connected with such business, from having a loaded firearm within such person's place of business, or any person in lawful possession of private property from having a loaded firearm on such property.

(g) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, during such time and in such area as the hunting is not prohibited by the city council.

(h) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or another is in immediate danger and that the carrying of such weapon is necessary for the preservation of such person or property.

(i) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(j) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his place of residence, including any temporary residence or campsite.

§ 12072. [Restrictions on transfer of certain firearms]

No person, corporation or dealer shall sell, deliver, or otherwise transfer any pistol, revolver, or other firearm capable of being concealed upon the person to any person whom he has cause to believe to be within any of the classes prohibited by Section 12021 from owning or possessing such firearms, nor to any minor, under the age of 18 years. In no event shall any such firearm be delivered to the purchaser within five days of the application for the purchase thereof, and when delivered such firearm shall be securely wrapped and shall be unloaded. Where neither party to the transaction holds a dealer's license, no person shall sell or otherwise transfer any such firearm to any other person within this state who is not personally known to the vendor. Any violation of the provisions of this section is a misdemeanor.

§ 12094. [Purchase, etc., of pistol or revolver without identification mark]

Any person with knowledge of any change, alteration, removal, or obliteration described herein, who buys, receives, disposes of, sells, offers for sale, or has in his possession any pistol, revolver, or other firearm which has had the name of the maker, model, or the manufacturer's number or other mark of identification including any distinguishing number or mark assigned by the Department of Justice changed, altered, removed, or obliterated is guilty of a misdemeanor.

§ 12220. [Possession and sale forbidden]

Any person, firm or corporation, who within this State sells, offers for sale, possesses or knowingly transports any firearms of the kind commonly known as a machine gun, except as provided by this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison not to exceed five years or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

§ 12301. [Definition]

(a) The term "destructive device," as used in this chapter, shall include any of the following weapons:

(1) Any projectile containing any explosive or incendiary material or any other chemical substance, including, but not limited to, that which is commonly known as tracer or incendiary ammunition, except tracer ammunition manufactured for use in shotguns.

(2) Any bomb, grenade, explosive missile, or similar device or any launching device therefor.

(3) Any weapon of a caliber greater than .60 caliber which fires fixed ammunition, or any ammunition therefor, other than a shotgun or shotgun ammunition.

(4) Any rocket, rocket-propelled projectile, or similar device of a diameter greater than 0.60 inch, or any launching device therefor, and any rocket, rocket-propelled projectile, or similar device containing any explosive or incendiary material or any other chemical substance, other than the propellant for such device, except such devices as are designed primarily for emergency or distress signaling purposes.

(5) Any breakable container which contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

(b) The term "explosive," as used in this chapter, shall mean any explosive defined in Section 12000 of the Health and Safety Code.

§ 12303.2. [Possession in public or private place or on common carrier vehicle]

Every person who recklessly or maliciously has in his possession any destructive device or any explosive on a public street or highway, in or near any theater, hall, school, college, church, hotel, other public building, or private habitation, in, on, or near any aircraft, railway passenger train, car, cable road or cable car, vessel engaged in carrying passengers for hire, or other public place ordinarily passed by human beings is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of not less than five years.

§ 12303.3. [Possession, explosion, or igniting with intent to injure or intimidate]

Every person who possesses, explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to injure, intimidate, or terrify any person, or with intent to wrongfully injure or destroy any property, is guilty of a felony, and shall be punished by imprisonment in the state prison for a period of not less than five years.

§ 12520. [Penalty]

Any person, firm or corporation who within this State possesses any device of the kind commonly known as a silencer for firearms is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison not to exceed three years or by a fine not to exceed five thousand dollars ($5,000) or by both.

§ 12580. ["Blowgun"]

"Blowgun," as used in this article, means a hollow tube designed and intended to be used as a tube through which a dart is propelled by the force of the breath of the user.

§ 12581. ["Blowgun ammunition"]

"Blowgun ammunition," as used in this article, means a dart designed and intended for use in a blowgun.

§12582. [Misdemeanor offense of sale, possession, etc.]
Any person who knowingly manufactures, sells, offers for sale, possesses, or uses a blowgun or blowgun ammunition in this state is guilty of a misdemeanor.

§12904. [Purchase, etc., of pistol or revolver without identification mark].
Any person who knowingly buys, receives, disposes of, sells, offers for sale, or has in his possession any pistol or revolver which does not bear the manufacturer's number or other mark of identification in its original condition or as restored, or a distinguishing number or mark assigned to it by the Department of Justice is guilty of a misdemeanor.

California Welfare & Institutions Code

§625. Peace officer's taking minor into temporary custody without warrant: When permitted

A peace officer may, without a warrant, taken into temporary custody a minor:

(a) Who is under the age of 18 years when such officer has reasonable cause for believing that such minor is a person described in Sections 600, 601, or 602, or

(b) Who is a ward or dependent child of the juvenile court or concerning whom an order has been made under Section 636 or 702, when such officer has reasonable cause for believing that person has violated an order of the juvenile court or has escaped from any commitment ordered by the juvenile court, or

(c) Who is under the age of 18 years and who is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization, or other remedial care.

In any case where a minor is taken into temporary custody on the ground that there is reasonable cause for believing that such minor is a person described in Section 601 or 602, or that he has violated an order of the juvenile court or escaped from any commitment ordered by the juvenile court, the officer shall advise such minor that anything he says can be used against him and shall advise him of his constitutional rights, including his right to remain silent, his right to have counsel present during any interrogation, and his right to have counsel appointed if he is unable to afford counsel.

§664. Subpoenas.

Upon request of the probation officer, district attorney, the minor or the minor's parent, guardian, or custodian, the court or the clerk of the court shall issue, and, on the court's own motion, it may issue subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing under the provisions of this chapter.

When a person attends a juvenile court hearing as a witness upon a subpoena at its discretion, the court may by an order on its minutes, direct the county auditor to draw his warrant upon the county treasurer in favor of such witness for witness fees in the amount and manner prescribed by Section 68093 of the Government Code. The fees are county charges.

SEC. 41.14. INJURY TO PUBLIC PROPERTY:

No person shall cut, break, destroy, remove, deface, tamper with, mar, injure, disfigure, interfere with, damage, tear, remove, change or alter any—

(a) part of any building belonging to this City;

(b) drinking fountain situated on any public street or sidewalk or any appliance used in or about such fountain;

(c)

(1) electric lamp erected or suspended on or over any street, sidewalk or park and used in the lighting thereof, or any wire or other apparatus immediately attached to such lamp;

(2) any lamp standard or lamp pole, nor attach thereto any banner, pennant, streamer, flag, sign, picture, wire, rope or other attachment of any kind for any purpose without first obtaining a permit to do so, as required by Sec. 62.132 of this Code.

(d) parts or appurtenances of the fire alarm, telegraph system or police signal system, lamp post, street sign post, fire alarm box, police signal box, post, standard, or pole or any fixture or apparatus used about or in connection with any such post, box, standard or pole;

(e) life buoy, life preserver, life boat, rope, gang or other material, property or apparatus owned by this City and used or intended to be used for the purpose of saving life except when necessary for that purpose;

(f) public bridge or any portion thereof;

(g) water main, pipe, conduit, hydrant, reservoir or ditch, or to tap the same without permission of the Board of Water and Power Commissioners;

(h) water meter or any box containing any pipe, stop-cock or cut-off valve of the Department of Water and Power of this City or cover the same with earth, brick, stone, mortar, debris, or building material;

(i) tree, shrub, tree stake or guard in any public street, or affix or attach in any manner any other thing whatsoever, including any guy wire or rope, to any tree, shrub, tree stake or guard except for the purpose of protecting it or unless otherwise authorized by this Code;

(j) property owned by any public utility located on any street or sidewalk;

(k) other property owned or leased by this City, the County of Los Angeles, the State of California or the United States government or any political subdivision or department thereof, and not specifically enumerated in this section;

(l) public document, notice or advertisement or any private or legal document required to be posted or exhibited in the manner and place provided by law, or any copy of any ordinance posted in any public building or place, or on private property when such public notice or ordinance is required by law to be placed or posted thereon.

SEC. 41.18. SIDEWALKS, PEDESTRIAN SUBWAYS–LOITERING:

(a) (Amended by Ord. No. 137,269, Eff. 10/21/68.) No person shall stand in or upon any street, sidewalk or other public way open for pedestrian travel or otherwise occupy any portion thereof in such a manner as to annoy or molest any pedestrian thereon or so as to obstruct or unreasonably interfere with the free passage of pedestrians.

Whether or not a defendant's acts "in any manner hindered or obstructed the free-passage" of persons passing is clearly a question of fact for the jury.

People v. Firestone, CR A 518.

Where free-passage along sidewalks is obstructed by persons listening to what is said at a street-meeting, the persons conducting said meeting cannot be convicted of a violation of this section in the absence of other facts.

People v. Yoneda, CR A 249.

(b) No person shall loiter in any tunnel, pedestrian subway, or on any bridge overpass, or at or near the entrance thereto or exit therefrom, or at or near any abutment or retaining wall adjacent to such entrance or exit, or any retaining wall or abutment adjacent to any freeway, street or highway open and used for vehicular traffic, or adjacent to that portion thereof used for vehicular traffic, or on any public property in the proximity of such bridge, overpass, or retaining wall or abutment.

(c) No person in or about any pedestrian subway, shall annoy or molest another or make any remark to or concerning another to the annoyance of such other person, and no person shall commit any nuisance in or about such subway.

(d) (Amended by Ord. No. 137,269, Eff. 10/21/68.) No person shall sit, lie or sleep in or upon any street, sidewalk or other public way.

The provisions of this subsection shall not apply to persons sitting on the curb portion of any sidewalk or street while attending or viewing any parade permitted under the provisions of Section 103.111 of Article 2, Chapter X of this Code; nor shall the provisions of this subsection apply to persons sitting upon benches or other seating facilities provided for such purpose by municipal authority or permitted by this Code.

SEC. 41.27. INTOXICATION:

(a) No person shall be or appear in a state of drunkenness or intoxication upon any public street, sidewalk, highway or alley or in any public park or in any railroad depot or bus station, or in any public place, or in any place open to the patronage of the public, or in any place open to public view, or in or upon any building or premises or portion thereof which is owned or occupied by any municipality or by any department office thereof, or by any other government or governmental agency or instrumentality, and devoted to any public or governmental use or to the performance of any official business or function, including any premises occupied by the Federal Government but not under the exclusive jurisdiction thereof.

SEC. 45.01 FIREARMS – KNIVES – SLINGSHOTS – SALE TO MINORS: (Amended by Ord. No. 114,617, Eff. 11/6/59.)

No person shall sell, exchange, give or loan to any person under 18 years of age any slingshot, springback knife, gun, revolver, pistol or firearm of any description, or any spring or airgun or other device designed or intended to discharge any pellets, B-B shot, shot or other deadly or dangerous missile, or any ammunition, cartridge, shell or other device, whether containing any explosive substance or not, designed and intended for use in any weapons enumerated herein.

SEC. 45.02. FIREARMS – MINORS – POSSESSION OF:

No person under 18 years of age shall have in his possession, care, custody or control any article or thing mentioned in the preceding section.

SEC. 45.03. CURFEW:

(a) No person under the age of eighteen years shall loiter about any public street, avenue, alley, park or other public place between the hour of 10:00 o'clock P.M. and the time of sunrise of the following day unless accompanied by his or her parent or legal guardian having legal custody and control of his or her person or by his or her spouse over the age of twenty-one years.

SEC. 55.00. GUNS – PERMITS:

No person shall fire, shoot or discharge any gun, rifle, pistol or other firearm, or any air-gun, air-rifle or air-pistol, or any spring-gun, spring-rifle or spring-pistol, or any carbon dioxide or other gas operated gun, rifle or pistol without having first obtained a written permit from the Board of Police Commissioners.

SEC. 55.01. CONCEALED WEAPONS – PERMIT:

No person, except a peace officer, shall wear or in any manner carry concealed upon his person any loaded or unloaded gun, pistol or revolver, or any other dangerous or deadly weapon permitted to be carried by law without having, at the same time, actually in his possession, and upon his person an unexpired permit so to do issued by the Board of Police Commissioners.

SEC. 57.55.01. FIREWORKS:

A. It shall be unlawful for any person to use, possess, sell or discharge any firecrackers or fireworks of any kind within this City; provided, however, that under permit, granted by the Chief in accordance with the provisions of the Health and Safety Code of the State of California, patriotic, civic and religious organizations may conduct and present public fireworks displays. Every such display shall be under the control and supervision of a competent and experienced pyrotechnic operator, approved by the Chief, and shall be presented and conducted under such conditions as may be required by the Chief. The fireworks in all such public displays shall be of such a character and so located, discharged or fired as not to be hazardous or dangerous to persons or property.

B. Fireworks may be shipped, delivered or sold for delivery, to points outside this City where the sale or use thereof is lawful, by any wholesaler, retailer, jobber, warehousemen, or a manufacturer, or manufactured for such sale or distribution only, or kept in storage in a safe and secure place pending the lawful disposal thereof; but no fireworks shall be handled, manufactured or stored hereunder without the express written approval of the Chief. Such approval shall be revocable for cause and shall be granted only upon application therefor, setting forth a description of the place of storage or manufacture and such other information as the Chief shall require.

C. Storage. **Fireworks shall be stored in compliance with the following:**

1. A maximum of 500 pounds may be stored in a location approved by the Chief.

2. Quantities in excess of 500 pounds shall be stored in a room of one-hour fire resistive construction. Openings therein shall be provided with Class "C" fire protection assemblies.

Such room shall be equipped with an automatic sprinkler system.

SEC. 63.94. SCHOOL GROUNDS – TRESPASS ON:

No person shall use or occupy or play in or upon, or trespass in or upon the grounds of any public school in this City. This section shall not apply to children occupying or playing in or upon the grounds of such school in the presence and under the supervision of a teacher connected with such school or of some other authorized person.

SEC. 103.118. TEEN-AGE DANCES:

(a) Definitions. As used in this Article:

1. "ADULT SPONSORING GROUP" means a non-profit organization whose primary object is to sponsor, regulate and control youth activities and child welfare, and which assumes full and complete responsibility for the direction of a teen-age dance, the receipts or contributions from which are to be expended only for child welfare or charitable purposes.

2. "NON-PROFIT DANCE" means a dance where the expenses incurred in connection therewith are reasonable, and the net receipts of any admission fees or contributions collected are expended exclusively for child welfare or charitable purposes.

3. "TEEN-AGER" means any person under the age of 20 years.

4. "TEEN-AGE DANCE" means a non-profit dance held or conducted exclusively for teen-agers and to which no person 20 years of age or older are admitted as participants.

(b) Permit Required.

1. No person shall conduct or sponsor any teen-age dance without a written permit from the Board.

2. No person may secure a permit to conduct or sponsor any teen-age dance except an adult sponsoring group which has been approved by the Board and which has assumed full and complete responsibility for the event, its direction and expenditure of funds.

3. (Amended by Ord. No. 128,418, Eff. 10/26/64.) Welfare Planning Council Los Angeles Region, through its member youth serving agencies approved by the Board may be granted a permit for a period of one year to conduct or sponsor teen-age dances in any of their regular established facilities. A permit is required for each location where teen-age dances are to be held.

(c) Permit – Application – Contents of.

1. The application for a permit hereunder shall be filed with the Board not less than 20 days before the date of said teen-age dance.

2. The application for a permit shall be accompanied by adequate certification that the place or premises where the dance is to be held is reasonably adequate for the purpose and conforms with existing health, safety and fire ordinances of the City of Los Angeles, and specifying the maximum number of persons that may safely be accommodated at the dance.

3. The application for permit shall set forth therein the following minimum information:

(i) The name and address of the applicant's officers;

(ii) The date upon which the dance is to be held;

(iii) The address of the place where the dance is to be held;

(iv) The approximate attendance expected and the minimum number of adult supervisors who will be in attendance at all times during the holding of said dance.

EXCEPTIONS:

1. A permit is not required for any agency or department of the City of Los Angeles, County of Los Angeles, the Board of Education, or other political subdivision of the State of California which is normally engaged in youth or child-serving activities.

2. **(Amended by Ord. No. 128,418, Eff. 10/26/64.)** The Board in its discretion may waive any of that certain information required in the application for a permit when such application is filed with the Board by a member youth serving agency of the Welfare Planning Council Los Angeles Region when such agency has secured an annual permit from said Board.

(d) **Investigation.** Upon the filing of each application hereunder, the Board shall cause to be made such investigation as it deems necessary, and if the Board shall find that the conducting of said teen-age dance for which the permit is requested, and at the place set forth in the application, will not violate any law or ordinance of the City of Los Angeles, or any law of the State of California, or constitute a menace to the health, peace or safety of the community, and the applicant is an adult sponsoring group approved by the Board, and has not had a permit revoked by the Board within one year prior to the application, then the Board shall issue a permit to the applicant.

(e) **Lighting of Hall.** All places where teen-age dances are held shall be adequately lighted at all times when open for dancing and the volume of illumination shall not be less than one foot-candle in all parts of the building and premises accessible to participants.

(f) **Parking – Lighting.** All off-street parking facilities made available for the participants of teen-age dances shall be adequately lighted and supervised.

(g) **Attendance.** No minor admitted to a teen-age dance shall be permitted to leave and thereafter re-enter the dancing premises during the course of the event, and no pass-out checks shall be issued unless required by the physical arrangement of the premises.

(h) **Use of Alcoholic Beverages – Prohibited.** No alcoholic beverages shall be sold, consumed or be available on the premises in or about which any teen-age dance is held. Admission to a teen-age dance shall be denied to any person showing evidence of drinking any alcoholic beverage or who has any alcoholic beverage on his person.

(i) **Conduct – Dress of Participants.** All dancing shall be of an acceptable social standard and the dress of the participants must be in conformity with accepted standards. Sufficient adult supervision shall be provided at all teen-age dances to insure that accepted standard of social conduct are followed.

(j) **Time Limit for Dances.** No dancing at any teen-age dance shall be permitted after the hour of 12:00 o'clock midnight, unless the permit issued for that dance specifically authorizes the continuance for a later hour. Application for authorization to continue dancing after the hour of 12:00 o'clock midnight may be issued in the discretion of the Board.

(k) **Participation of Adults Prohibited.** A person 20 years of age or over shall not attend any teen-age dance as a participant. This does not prohibit the attendance of chaperons or sponsors who do not participate in the dancing.

(l) **Loitering.** Any person who loiters around or about the premises at which a teen-age dance is being conducted is guilty of a misdemeanor.